THE

CIRCULAR ORDERS

OF

THE COURT

OF

NIZAMUT ADAWLUT,

COMMUNICATED TO THE CRIMINAL AUTHORITIES.

From 1796 to 1853 inclusive.

IN ONE VOLUME.

WITH AN INDEX.

BY J. CARRAU.

Published by Authority.

CALCUTTA

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PREFACE.

THE Publisher having been authorised by the Government of Bengal, at the recommendation of the Sudder Court, to reprint, in one Volume Octavo, the CIRCULAR ORDERS passed by the Nizamut Adawlut for the Lower and North-Western Provinces, from 1796 to 1853, he has much pleasure in offering to the public this Volume, which contains the CIRCULAR ORDERS issued by both Courts now in force only; all such as have been rescinded and superseded, or become obsolete by subsequent Legislative Enactments have been omitted.

With a view to prevent misapprehension, the Publisher has, with much care, prepared and appended a list, showing the CIRCULAR ORDERS which have been omitted in the Volume, with reasons for the omission, and he therefore hopes that the work will be found useful and perfect.

As in the Dewanny Edition, the original numbers of the CIRCULAR ORDERS passed by the Nizamut Adawlut have been also retained in this Volume, and notes have been added for facility of reference to other orders bearing upon the same subject.

J. CARRAU.

GOVERNMENT OF BENGAL

THE CIRCULAR ORDERS

PASSED BY

THE NIZAMUT ADAWLUT,

AND COMMUNICATED TO THE

COURTS OF CIRCUIT AND ZILLAH AND CITY MAGISTRATES

BY THE

REGISTER OF THAT COURT,

FROM 1796 TO 1853.

VOL. I.

TO THE COURTS OF CIRCUIT.

March 24, 1796.

No. 2.

Courts of circuit and magistrates to keep separate, as far as possible, the proceedings on the trial and commitment of prisoners upon distinct charges.

THE Court of Nizamut Adawlut having had before them numerous cases in which several charges against prisoners, preferred by separate prosecutors, have been blended and proceeded upon in one trial, and being of opinion that the trials of prisoners upon distinct charges, especially where the prosecutors are also distinct, should, as far as possible, be kept separate, as well for the sake of perspicuity, as to avoid an unnecessary occupation of the time of the courts of circuit, and their own, in cases where a prisoner may have been convicted of an offence rendering him liable to capital punishment, they have directed me to communicate this remark to you for your general observance in future trials, and to desire that you will circulate it to the several magistrates within your division for their guidance in future commitments.

TO THE COURTS OF CIRCUIT.

No. 3.

April 6, 1796.

Convicts to be employed on public works with what exceptions.

THE Court of Nizamut Adawlut, having ascertained from their law officers, that the employment of all convicts, sentenced to imprisonment, in the repair of the public roads, or in other similar public works, is consistent with the Mahomedan law, and being of opinion that such employment must be salutary to the prisoners, they have thought proper to resolve, that all prisoners of the description above mentioned shall be so employed, with an exception to any person who may be incapable of bodily labour from age, sickness, or other infirmity; and accordingly desire you will issue the necessary orders to the several magistrates within your division.

NOTE.—See Nos. 8, 44, and 98, Vol. I., and No. 99, Vol. IV.

TO THE COURTS OF CIRCUIT.

No 5.

May 5, 1796.

Courts of circuit to require from magistrates a return of the execution of orders for the restoration of stolen property found on convicts.

THE Court of Nizamut Adawlut, adverting to the orders which frequently form part of their sentence for the restoration of stolen property found on he prisoners convicted, and being of opinion that the execution of such orders should be certified by the zillah and city magistrates, either in the return endorsed by them on the warrant of the court of circuit, or in a subsequent return to be made as soon as the execution of the order may admit; you are accordingly directed to require the magistrates of your division to certify to you, in the manner above stated, the execution of all orders of the foregoing description, and are to be careful that such certificates are preserved among the records of your court.

TO THE SEVERAL MAGISTRATES.

No. 6.

June 8, 1796.

The magistrates authorized to transmit monthly report required by Regulation IX. 1793, in Persian with an English abstract.

THE Court, adverting to the convenience that may arise to the several magistrates from being allowed to transmit the monthly reports required from them by Regulation IX. 1793, in Persian, with an abstract only in English, instead of sending the whole in English as at present, and being of opinion that detailed reports in Persian, with English abstracts, will equally answer every purpose intended by the reports in question, they have directed me

to inform you, that you are authorised to transmit such, if more convenient to you.

NOTE.—See No. 37, Vol. I.

TO THE SEVERAL MAGISTRATES.

August 3, 1796.

No. 7.

Form of list to accompany convicts sent for transportation to the magistrate of 24-Pergunnahs.

THE Court of Nizamut Adawlut have directed me to desire, that whenever you may in future send down convicts for transportation to the jail of the 24-Pergunnahs, you will transmit with them to the magistrate of the said zillah, an accurate list, containing the names of the several prisoners, the dates of their sentences respectively, and the period for which they are ordered to be transported, according to the form herewith furnished for your guidance :

List of Prisoners sentenced by the Nizamut Adawlut to be transported.

Names of Prisoners, and of their Fathers.	*Crime.*	*Date of Sentence.*	*Period of Transportation.*
Teencowry, son of Punchoo,	Murder.	Sept. 1, 1796.	For life.
Gungaram, son of Dirumpershaud, ...	Gang robbery.	Oct 1, 1796.	For 14 years.

NOTE.—See Nos. 25, 88 and 95, Vol. I., and No. 20, Vol. III.

TO THE COURTS OF CIRCUIT.

August 10, 1796.

No. 8.

Magistrates to report any instances of prisoners whom they may judge it proper to exempt from the operation of the preceding order for the employment of con-

THE Nizamut Adawlut being of opinion, that cases may occur, though but seldom, in which it would not be proper to enforce their Circular Order of the 6th of April last, for employing all convicts sentenced to imprisonment in the repairs of the public roads or other similar public works, with an exception to such as are incapable of bodily labour from age, sickness, or other infirmity, have directed me to desire that you will instruct the several magistrates within your division, in case any convict, now, or hereafter, sentenced to imprisonment, should, from his rank and situation of life or otherwise,

victs on public works.

appear to them an improper object to be employed on the public roads, or other similar works, agreeably to the said order, to report the same, with the circumstances of the case, for the special orders of this Court, and in the mean time to suspend the execution of the former order.

NOTE.—See No. 3, Vol. I.

TO THE COURTS OF CIRCUIT.

No. 9.

November 30, 1796.

Prisoners committed by a magistrate after the arrival of the court of circuit at his station, should be tried at the session then pending, provided the trial be ready to be proceeded upon.

A QUESTION having been submitted to the Nizamut Adawlut, whether a prisoner committed by the zillah magistrates, after the arrival of the court of circuit at his station, is to be tried at the session of the court of circuit then pending, or at the ensuing session, the Court direct me to acquaint you, for your guidance in cases of this nature, that they are of opinion, provided the witnesses are in attendance, and the trial is in every respect ready to be brought before the court of circuit, it should be immediately proceeded upon, in humanity to the prisoner, who must otherwise be kept in confinement till the ensuing jail delivery.

NOTE.—See No. 77 Vol. I. This Circular is still applicable to judges holding quarterly sessions. See also No. 49 of the same Vol.

TO THE COURTS OF CIRCUIT.

No. 11.

December 28, 1796.

Magistrates to certify on the record of all examinations and depositions, before whom they are taken.

INSTANCES having occurred in trials referred to the Nizamut Adawlut, in which the confessions of the prisoners have been stated to have been taken in the fouzdaree cutcherry without any specification of the person before whom they have been taken, the Court desire that you will instruct the magistrates of your division to certify upon the record of all examinations of parties and depositions of witnesses before whom such examinations and depositions are taken, and that such certificate be invariably included in the copy of their proceedings transmitted by you on trials referred to this Court.

NOTE.—See Nos. 23 and 58, Vol. I., and para. 20, No. 54, Vol. II.

TO THE COURTS OF CIRCUIT.

December 7, 1797. No. 16.

Courts of circuit to record on their proceedings, that the witnesses have been admonished as directed in Clause 6, Section VII., Regulation IV. 1797.

Also to remind witnesses of the above admonition whenever there appears occasion for it in the course of their examination.

THE Court, adverting to Section VII. of Regulation IV. 1797, and being of opinion that the proceedings of the courts of circuit should notice the admonition to witnesses directed in the 6th clause of that section, in like manner as they notice that witnesses have been sworn, I am directed to desire that in all future trials held before you, you will record on your proceedings that the admonition in question has been repeated to the witnesses as directed in the above Regulation.

2. I am also directed to desire, that you will remind the witnesses examined before you of the above admonition, particularly of that part of it which enjoins them carefully to distinguish what they personally know, from what they may have heard from others, whenever in the course of their examination, there may appear occasion for it.

TO THE COURTS OF CIRCUIT.

April 19, 1798. No. 17.

Courts of circuit, in trials of murder referred to the Nizamut Adawlut, to transmit inquest held on the body of the deceased, or, if no inquest has been held, to notice the omission.

THE Court of Nizamut Adawlut being of opinion, that in trials of murder, the inquest on the body of the deceased, when taken as prescribed in Section IX. of Regulation IV. 1797, is of material use both in ascertaining the fact, and in weighing the credibility of witnesses, they desire, that on all references of such trials to them, you will make it an invariable rule to transmit with your proceedings a translation of the report made to the magistrate of the inquest held upon the body of the deceased, or, if no inquest shall have been held, that you will notice the same in your letter accompanying the trial, with the cause of omission ; calling upon the magistrate, if necessary, for an explanation thereof.

TO THE ZILLAH AND CITY MAGISTRATES.

November 14, 1798. No. 18.

Employment of convicts under a single guard prohibited.

THE Court of Nizamut Adawlut, considering the frequent escape of convicts whilst employed on the roads, or in other places out of jail, under the custody of a single sepoy or burkundaz, have thought it proper to prohibit the employment of any convicts, out of jail, under the custody of a single guard, and direct that the convicts under your

charge be on all occasions employed, as far as possible, collectively, under the guard of as many sepoys and burkundazes as can be spared from other duties for the purpose.

TO THE COURTS OF CIRCUIT.

July 4, 1800.

No. 23.

Confessions made before magistrates to be attested by three or four respectable witnesses who can read and write.

THE Court of Nizamut Adawlut observing that in many trials which come before them, where the only proofs that can be adduced against the prisoners are their own confessions before the magistrate, these confessions are attested by no more than two witnesses, and that in the event of the death of any one of those witnesses before the trial, the prisoner must be acquitted, I am directed to desire that you will issue circular orders to the several zillah and city magistrates, requiring them to cause all confessions of this description, made before them in future, to be attested generally by four, or at least by three, creditable and respectable witnesses, who can read and write.

NOTE.—See No. 11, Volume I.

TO THE ZILLAH AND CITY MAGISTRATES.

April 10, 1801.

No. 25.

Description of the persons of convicts sent to the magistrate of 24-Pergunnahs to be inserted in prescribed list.

THE Court of Nizamut Adawlut being of opinion, that an accurate description of the persons of convicts sentenced to transportation will be of material use in identifying such convicts, they desire you will furnish such description of all convicts who may be hereafter sent by you to the jail of the 24-Pergunnahs for the purpose of being transported; inserting the same in an additional column, in the list prescribed by the Court's circular order of the 3rd August 1796, *viz.* in a second column, to follow the names of the prisoners required to be inserted in the first column; and to be entitled "description of prisoners."

2. The Court further rely on your attention to see that such description be in all cases as full and accurate as possible.

NOTE.—See No. 7, Vol. I.

TO THE COURTS OF CIRCUIT.

June 29, 1801.

No. 26.

Bodies of prisoners who may die in jail not to be removed till an inquest has been held.

AN instance having occurred of a prisoner escaping from the jail in which he was confined, by feigning himself dead, the Nizamut Adawlut, in order to prevent the success of future similar attempts, think proper to desire, that you will instruct the several magistrates within your division, not to allow the removal of the bodies of prisoners who may die in jail, until an inquest shall be held on them by the native surgeon of the station, and such other persons as the magistrate shall appoint for the purpose, and the result of such inquest regularly reported.

TO THE COURTS OF CIRCUIT.

September 11, 1801.

No. 27.

Proceedings in trials referrible under Regulation X. 1799 to the Nizamut Adawlut, to be transmitted within the ten days fixed by Section LXVIII. Regulation IX. 1793. Native officers of magistrates to assist in transcribing the proceedings of the courts of circuit, and additional mohurrirs to be employed.

Original of magistrate's proceedings to be transmitted to the Nizamut Adawlut, without copies being made of them.

SEVERAL instances having occurred of very considerable delay in the transmission of trials referrible to the Nizamut Adawlut, whereby the objects proposed by Regulation X. 1799, *viz.* to prevent the lengthened confinement of prisoners who may be ultimately acquitted by the Nizamut Adawlut, and to expedite the punishment of those who may be convicted, have been in a material degree frustrated, the Court, with a view to the more certain and actual attainment of the ends proposed by the above Regulation, desire your strict observance of the following instructions in addition thereto.

2. To enable the judges of circuit to prepare the counterpart record of trials referrible to the Nizamut Adawlut, with the least possible delay, the several zillah and city magistrates will be instructed to give the assistance of their native officers in transcribing the original proceedings; and the judges of circuit are authorized to employ any additional mohurrirs they may find necessary, and be able to procure, for the same purpose; transmitting a contingent bill on this account, for the sanction of Government.

3. The proceedings and papers received from the magistrates, required by the Regulation above mentioned to be transmitted to the Nizamut Adawlut with trials referrible to that Court, are to be transmitted as received from the magistrates, without making copies of them; and such papers, after the Nizamut Adawlut shall have passed sentence on the trial referred with them, will be returned to the judge of circuit.

4. By these means, the Court trust that the trials referrible to them will be always transmitted in future, within the period of ten days fixed by Section LXVIII., Regulation IX. 1793, as well as without

any impediment to the business of the circuit.—If any other measures should appear to you advisable for either of these purposes, the Court desire you will communicate them.

NOTE.—See Para. 5, No. 135, Vol II.

TO THE COURTS OF CIRCUIT.

No 32. *March* 13, 1804.

In cases of capital punishment, copy of sentence to be sent to the magistrate along with warrants for execution.

THE Court of Nizamut Adawlut deem it expedient to direct that in all cases of capital punishment, you will transmit to the magistrates, together with your warrants for the execution of the prisoners, copies of the sentences of this Court.

TO THE COURTS OF CIRCUIT.

No. 34. *June* 19, 1804.

Warrants how to be returned after execution of sentence.

I AM directed to inform you that it is the intention of the Nizamut Adawlut that all warrants should be returned to the court by which they are issued, after the complete execution of the sentence contained in them, with an endorsement, certifying the manner in which the sentence has been carried into execution.

In the case of a sentence both for corporal punishment and imprisonment, the carrying into execution of the former part of the sentence should be endorsed on the warrant at the time of inflicting the punishment; but as the warrant in this case cannot be considered to be completely executed until the prisoner has undergone the period of imprisonment adjudged against him, the magistrate should retain the warrant until the expiration of the term of imprisonment, or return it duly endorsed, should the prisoner die during the course of the term; or, in the event of his being removed to another zillah, the warrant should be transmitted to the magistrate of the zillah to whom the prisoner may be sent, with information that he is to return it duly endorsed to the court of circuit on the expiration of the sentence or death of the prisoner.

The Court accordingly desire, that you will communicate the above remarks to the several magistrates within your division for their information and guidance.

TO THE COURTS OF CIRCUIT.

August 7, 1804. No. 35.

Construction of Section XXII., Regulation XXII. 1793, and corresponding enactments respecting criminal charges preferred against officers of police.

A DOUBT having arisen whether it be meant by Section XXII., Regulation XXII. 1793, and Section XVII., Regulation XX. 1795, that criminal charges preferred under these sections against officers of police, should be received and proceeded upon by the courts of circuit in the first instance, or whether they should be preferred to the magistrates, and the parties accused be committed or held to bail by them for trial before the courts of circuit, I am directed by the Nizamut Adawlut to inform you that they are of opinion, it was meant by the Regulations and Sections in question, to give an option, in the cases therein mentioned, either of a civil action in the Dewanny Adawlut, or of a criminal prosecution before the court of circuit; but that it was not intended by those sections to except any complaints brought under them from the regular course of procedure in other cases.

I am further directed to notice to you that the construction of the Regulations referred to, is confirmed by Section XXI., Regulation XXXV. 1803, for the Ceded Provinces.

TO THE COURTS OF CIRCUIT.

October 16, 1804. No. 37.

Instructions respecting the insertion of certain particulars in the monthly reports of persons apprehended, required by Section XXVIII., Regulation IX. 1793, and corresponding enactments.

THE Court of Nizamut Adawlut adverting to the monthly reports of persons apprehended by the magistrates, in pursuance of Section XXVIII., Regulation IX. 1793*, and observing that some of the magistrates omit to insert the date of apprehension, for persons apprehended in former months, but detained in confinement for examination, they desire that you will instruct the several magistrates within your division, to insert, in all cases, the date of apprehension, as well as the dates of punishment, release, or commitment, under the proper heads of the report above-mentioned.

The Court also observing that some of the monthly reports transmitted under the section referred to, exhibit the names of persons apprehended for petty offences, and admitted to bail, in former months, but upon whom no final order has been passed, they desire you will inform the several magistrates under your authority that they are not required to include in their future monthly reports of persons apprehended, those who may have been apprehended in former months, and are still held to bail.

NOTE.—See No. 6, Vol. I.

* Benares, Section IV., Regulation XVI. 1795, Ceded Provinces, Section XXVII., Regulation VI. 1803.

TO THE COURTS OF CIRCUIT.

January 4, 1805.

No. 40.

Principle to be observed by the magistrates in the use of fetters, with respect to prisoners in confinement for trial before the court of circuit.

AN instance having occurred wherein several respectable persons charged with a bailable offence, were committed to prison by the magistrate for trial before the court of circuit, and confined in fetters, and it having been stated to the Nizamut Adawlut, that it is a prevalent practice with many of the magistrates to confine in fetters all persons ordered to be tried by the courts of circuit, and not admitted to bail, or unable to give the bail required from them, whatever may be their situation in life or the nature of the offence charged against them; the Court desire it to be notified to the several magistrates, that such practice, with respect to persons charged with offences not of a heinous nature, or who might be committed to prison from inability to find sufficient bail, being unnecessary to secure their appearance at the time of trial, (the only object of personal custody in such cases,) and it being the evident intention of the Regulations that no prisoner, before he is brought to trial, should suffer more corporal restraint or personal ignominy than may be unavoidable for his safe custody, and appearance at the time of trial, they are required to be careful in observing this principle; and consequently are not to confine in fetters any person for trial before the court of circuit, who may be charged with a bailable offence, and committed to prison from inability to find bail or who, though not admitted to bail, may not have been charged with an heinous offence, such as from the nature and circumstances of the case, considered with the prisoner's condition of life, may appear to render the use of irons indispensably requisite for his secure custody.

TO THE COURTS OF CIRCUIT.

March 28, 1807.

No. 44.

Discretion vested in the judges of circuit to exempt from hard labour persons sentenced by them to imprisonment.

A DOUBT having been expressed as to the expediency of a judge of circuit directing in his warrant the exemption from labour of any persons sentenced to imprisonment, I am directed to inform you, that the Court of Nizamut Adawlut, adverting to their circular orders to the magistrates issued through the courts of circuit, under dates the 6th April and 10th August 1796, are not aware of any objection to judges of circuit inserting an exemption from hard labour in the warrants issued by them to the magistrate, in cases wherein they may, on consideration of the rank or situation in life of any person sentenced to imprisonment, consider him to be an improper subject of hard labour.

NOTE.—See No. 3, Vol. I.

TO THE COURTS OF CIRCUIT.

April 2, 1808.

No. 48.

Judges of circuit, in their reports on the conclusion of the half-yearly jail deliveries, to report the circumstances of prisoners confined under the direct orders of Government.

I AM directed by the Court of Nizamut Adawlut to transmit to you the accompanying extract of a letter from the Secretary to Government in the judicial department, dated the 1st instant; and to desire, that the judges of circuit in making the report prescribed by Section XII.*, Regulation IV. 1797, on the conclusion of each of the half-yearly jail deliveries, will report the situation of any prisoners who may be in confinement in any of the zillah or city jails, or otherwise in restraint, under the direct orders of Government; noticing at the same time whether they may be charged with crimes against the state, or confined on any other ground.

Extract from a Letter from the Secretary to Government in the Judicial Department, under date the 1st of April, 1808.

The Governor General in Council entirely concurs in the opinion expressed by the Nizamut Adawlut, that as Government, for reasons of state, has reserved to itself the power of ordering the confinement of persons, when the exigency of the case may appear to require it, the judges of circuit would not be warranted in directing the ordinary procedure to be observed with respect to such persons. His Lordship in Council is at the same time of opinion, that not only the judges of circuit in the division of Benares, but likewise the judges of circuit generally, should be directed to draw the attention of Government periodically to the situation of prisoners of that description, that such orders as may appear to the Governor General in Council to be proper, may from time to time be passed respecting them. The Nizamut Adawlut is accordingly requested to issue the necessary orders upon this point to the several courts of circuit.

NOTE.—See No. 7, Vol. III.

TO THE COURTS OF CIRCUIT.

April 13, 1808.

No. 49.

Judges of circuit, in completing the jail delivery, to admit and try any commitments

I AM directed by the Court of Nizamut Adawlut to desire, that the several judges of circuit for the division, on completing the sessions of jail delivery, will in future admit and try any commitments which may be made during their residence at each zillah;

* Ceded Provinces, Section XXXVII,, Regulation VII. 1803.

which may be made during their stay at each zillah.

and that they will uniformly observe this practice, except in cases where any material delay would occur in procuring the attendance of witnesses, or in other preparations for the trial.

NOTE.—See No. 9, Vol. I.

TO THE COURTS OF CIRCUIT.

No. 51.

May 10, 1809

Rule to be observed with respect to the salary of police darogahs when suspended for misconduct.

I AM directed by the Court of Nizamut Adawlut, to transmit to you, for your information and guidance, the accompanying copy of a letter, addressed to the Secretary to Government in the Judicial Department, under date the 19th ultimo, and an extract of a letter from Mr. Secretary Dowdeswell, dated the 28th ultimo, and to desire that you will communicate the same to the judicial officers in your division, for their respective information and guidance.

To the Secretary to the Government in the Judicial Department, April 19th, 1809.

I am directed by the Court of Nizamut Adawlut to request, that you will submit for the consideration and orders of the Right Honorable the Governor General in Council, the accompanying copy of a letter from the acting magistrate of zillah Tipperah, dated the 3rd instant.

Adverting to the subject of the last paragraph of the acting magistrate's letter, the Court are of opinion, that whenever a police darogah is suspended from office during the trial of a charge against him, and it is found necessary to appoint an acting darogah, the latter should receive the full salary of the office whilst he is so employed.

The Court are further of opinion, that in such cases, if the darogah be acquitted of the charge against him, the magistrate, or court of circuit, before whom the trial may be held, should report, for the consideration and orders of Government, whether the darogah appears to them to be entitled to receive the whole or any part of the salary of his office for the time of his suspension.

In the event of a darogah being considered to be entitled to the whole or any part of his salary, the Court would recommend that it should be paid by Government.

Extract of a Letter from the Secretary to the Government in the Judicial Department, dated 28th April, 1809.

The Governor General in Council approves the rule suggested by the Court to be observed with respect to the salary of police darogahs,

when suspended from office, on charges of corruption or other misconduct. The Court is accordingly requested to issue the necessary instructions on that subject, to the several magistrates and courts of circuit.

NOTE.—See No. 198, Vol. I.

TO THE SEVERAL COURTS OF CIRCUIT.

May 31, 1809. No. 53.

Conduct to be adopted by the magistrates in securing the co-operation of landholders in the suppression of crimes.

I AM directed by the Court of Nizamut Adawlut, to transmit to you the accompanying extracts from the report of the senior judge of the Calcutta court of circuit, on the conclusion of the 2nd sessions of 1808.

Adverting to the very successful operation of the measure adopted by the magistrate of zillah Nuddea, in obtaining the aid and support of the landholders and their agents, as required by the Regulations, (especially by Sections XI. and XII., of Regulation IX. 1808,) the Court desire that you will communicate the extract above-mentioned to the several magistrates within your division, and direct the adoption of similar measures whenever the state of the district, with respect to prevalence of dacoity may appear to require it.

Extract from a Letter from the Senior Judge of the Calcutta Court of Circuit, dated the 21st May, 1809.

Para. 4.—Opinions vary as to the causes of this continued and increasing commission of offences, and many I believe ascribe it to the defects of the system. I confess I cannot concur in this sentiment, for the Regulations appear to me in every respect well adapted to ensure an efficient police, and, if fully carried into effect, would soon lead to the suppression of dacoity. This is strongly demonstrated in the district of Nuddea, where the magistrate has succeeded in obtaining the aid and co-operation of the zemindars, and almost every description of people, to an extraordinary degree, which he seems to have accomplished by assembling and explaining to the naibs and agents of the zemindars attending at the station, the purport and intention of the Regulations, the assistance and co-operation expected from them, and the consequences of any omission or neglect on their part, either to assist the police officers, or to deliver up notorious dacoits, vagrants, or persons of bad or suspicious characters, supposed to subsist by depredations on the public.

TO THE COURTS OF CIRCUIT.

December 12, 1809.

No. 58.

Magistrates in what cases to permit their native officers to take examinations of prisoners and depositions of witnesses, and with what precautions.

I AM directed by the Nizamut Adawlut to transmit to you, for your information and guidance, the accompanying extract from the Court's proceedings of this date, and to desire that you will communicate the same by a circular letter to the several magistrates within your division.

Extract from the proceedings of the Nizamut Adawlut, on the 12th December 1809.

A reference having been made to the Nizamut Adawlut, respecting the propriety of magistrates permitting their native officers to take the examinations of prisoners and depositions of prosecutors and witnesses, the Court direct that the following observations be communicated to the several zillah and city magistrates, through the courts of circuit of their respective divisions, for their information and guidance.

The Court are of opinion, that in all cases, the examinations of prisoners, and, as far as possible, particularly in serious cases, the depositions of prosecutors and witnesses, should be taken, exclusively and entirely, before the magistrate, or his assistant, without any preliminary or partial examination before a native officer.

The Court are further of opinion, that whenever a magistrate or his assistant, from the great pressure of public business, may be under the necessity of employing any of the native officers in taking depositions of prosecutors or witnesses, such depositions should be invariably taken in some part of the cutcherry in which the magistrate or his assistant may be sitting, and not in a separate building, or in the absence of the magistrate or his assistant.

NOTE.—See No. 11, Vol. I.

TO THE COURTS OF CIRCUIT.

No. 59.

December 12, 1809.

Duties and powers of magistrates on the receipt of complaints against European British subjects.

THE advocate general having been consulted by the Nizamut Adawlut, whether, under the appointment of a magistrate to be a justice of the peace in conformity with the provisions of the statute 33 George III. Clause 52, Sections 151 and 152, and under the rules prescribed in Regulations II. 1796 and XV. 1806, for the guidance of the zillah magistrates on the receipt of criminal charges against European British subjects, it is incumbent on a magistrate, as a justice of the peace, to comply with an application made to him for relief, in a case of forcible entry and detainer,—and the Court having further requested the opinion of the advocate

general, whether the zillah and city magistrates who have taken the oaths of qualification as justices of the peace, are bound in consequence to take cognizance of any complaints against European British subjects, excepting such as are provided for by the rules contained in Regulations II. 1796 and XV. 1806,—the advocate general has given the annexed opinion on the foregoing questions, which you are desired to communicate to the several magistrates within your division, for their information and guidance.

Opinion of the Advocate General, December 11, 1809.

The office of justice of peace being introduced into this country by Act of Parliament, the Regulations can have no effect in dispensing with any duties which persons holding that office would be bound by law to perform. Whether they are, or are not, authorized to exercise any specific power, or (which is the same thing) bound to discharge any specific duty in this country which belongs to the office of justice of the peace in England, must in every instance depend upon the question, whether that part of the English law on which the given power or duty depends, is or is not applicable in this country. There are some broad lines which might be laid down for determining this question in certain cases; but in many cases it is and must be matter of nice judicial discretion. As I see no practical use, but on the contrary a great deal of inconvenience, in attempting to describe generally what matters are and what are not cognizable by justices of the peace here, I beg to decline it. The cases of the most common occurrence are attended with no difficulty; and the course which the magistrates have to take in them is, or easily may be, well known. If any should occur which are out of the ordinary routine, the easiest and safest way for the magistrate is to apply to the Government for instructions, which may be always obtained without any great delay. And if the case should be such as not to admit of that delay (though I can hardly imagine such a case), the magistrate may, I am sure, confidently act for the best, refusing or granting his interference as he thinks most expedient for the purposes of justice and public convenience. If his intentions are upright, the law will hold him harmless of any personal consequences; and speaking from my own experience I have no doubt that the Government would always think itself bound to defend him if attacked, where his motives were unquestionable.

With regard to the particular instance which has been brought before the Nizamut Adawlut of an application for a proceeding under the statutes of forcible entry, I am of opinion, that the magistrate acted rightly in refusing to comply with it. By those statutes justices of the peace in England have two sorts of powers; the one penal, against those who commit the violence; the other remedial, by directing restitution to the party dispossessed: this latter, however, they cannot exercise of themselves, but are bound to summon a jury to inquire of the fact of violent dispossession, and if the jury present

the force to the justice, he may issue his warrant to the sheriff to restore the possession. This part of the statutes has been very lately holden by the Supreme Court not to be applicable in this country, upon a motion made by me in the last term, for a mandamus to the justices of Calcutta, directing them to issue their precept to the sheriff to summon a jury to inquire of a forcible dispossession. The motion was rejected principally upon the ground that this proceeding by jury was not applicable to the state and condition of British subjects in this country, or consonant to the spirit of the charter, which had for reasons obviously derived from that state and condition, intrusted the decision on facts in matters of civil right (as they held this of restitution to be) to another tribunal. This reason of course applies *a fortiori* in the mofussil. With regard to the penal power, the justice in England may, on the application of the injured party, proceed to the spot, and if he finds the offenders in the actual commission of violence, or armed to retain what they have seized, he may record the fact on his own view, and commit them to prison, or take away their arms; but must not put the ousted party into possession. I am inclined to think that if it were necessary, a justice of the peace might exercise this power here over Europeans; but in the case before the magistrate, it was not necessary to exercise this summary authority in order to preserve the peace; and therefore he did rightly in a doubtful and unprecedented case, to abstain and report the matter to the Nizamut Adawlut.

TO THE COURTS OF CIRCUIT.

December 28, 1809.

No. 61.

Judges of circuit, except in particular cases, not to carry away the proceedings of magistrates in cases referred by them to the courts of circuit, and to return to the magistrates their proceedings on cases referred to the Nizamut Adawlut.

THE Court of Nizamut Adawlut having been given to understand that some of the judges of the courts of circuit are accustomed to carry away the proceedings of the magistrates in the trials made over by them to the courts of circuit, and that in consequence the magistrates have been under the necessity of having copies of such proceedings made to be retained among their own records, the Court direct me to desire that you will in future abstain from such practice.

I am further directed to desire that you will return to the magistrates their proceedings on trials referred to this Court, which are always returned to you from this office.

As however the judges of circuit may think it expedient in particular cases to detain the original proceedings of the magistrates referred to above, or to require copies of them, I am at the same time desired to inform you that you are competent to resort to either of those measures whenever it may appear essentially necessary.

TO THE COURTS OF CIRCUIT.

January 23, 1810. No. 62.

Examinations of all persons, however young, provided they have a competent discretion, and a sufficient sense of the nature and obligation of an oath, to be taken on oath or solemn declaration.

INSTANCES having occurred of witnesses being permitted to give their evidence without taking the oath, or subscribing the solemn declaration required by the Regulations, on the grounds of the tender years of the person examined, I am directed by the Nizamut Adawlut to desire that you will make it a rule to take the examinations of all persons deposing before you, on oath, or a solemn declaration, however young in years they may be, provided they appear to have a competent discretion, and to entertain a sufficient sense of the nature and obligation of an oath.

I am further directed to desire that you will circulate the above instructions to the several magistrates within your division, for their information and guidance.

NOTE.—See No. 1, Vol. II.

TO THE COURTS OF CIRCUIT.

February 24, 1810.

No. 64.

Instructions for the more effectual promulgation of the proclamation prescribed by Section III., Regulation IX. 1808.

I AM directed by the Court of Nizamut Adawlut to transmit to you the accompanying extract of a letter from the senior judge of the Bareilly court of circuit, under date the 20th of October last, and to desire that you will communicate the same to the several magistrates within your division, with instructions to adopt the measures proposed by Mr. Brooke, whenever they may have occasion to promulgate the proclamation prescribed by Section III., Regulation IX. 1808.

Extract of a Letter from the senior Judge of the Bareilly Court of Circuit, dated the 20th October, 1809.

PARA. 6. The provisions in the 3rd Section do not appear calculated for the most extensive promulgation that can be made. It directs the proclamation to be affixed at the magistrate's cutcherry, and at the police thannahs, and to be published by beat of drum in the towns in which they are situated. This appears scarcely sufficient, as a person may certainly be proclaimed and remain in ignorance of the proclamation.

7. For its more general promulgation, I beg leave to suggest that a copy of the proclamation be affixed at the collector's cutcherry, and that the collector be directed to transmit copies to his tuhseeldars, to be affixed by them at their cutcherries. It ought also to be an invariable rule to have the publication made by beat of drum in the town,

village, or place, where the person or persons proclaimed, or their families, have their residence.

8. I beg further to suggest that if at the town where the thannadar is stationed, and where the person proclaimed has his residence, a market be held, that the publication by beat of drum be ordered to be made on a market day, at the time of day when the people assemble in greatest number, and that it be published in this manner for three successive market days; and where a market may not be held, the publication be made by beat of drum at three different times, at a distance of a week between each publication.

9. With these precautions, it would be almost impossible for a person proclaimed to offer a plea of his being unacquainted with the proclamation; whilst, as the rule now stands, his ignorance may be urged with every presumption in favour of the credibility of his plea.

TO THE COURTS OF CIRCUIT.

No. 65. *March* 5, 1810.

Rules respecting the execution of persons sentenced to suffer death.

It having been represented to the Nizamut Adawlut that the execution of the criminals who are sentenced to suffer death, (especially of sirdar dacoits, and other notorious robbers,) may in some instances produce a deeper impression, and operate more powerfully as an example, by its taking place at or near to the spot where the crime has been committed, instead of the usual mode of execution at the magistrate's place of residence, and gibbeting the body at or near to the place where the crime was committed, I am directed by the Court to desire you will inform the several magistrates within your division, that they are at liberty in all instances to execute criminals sentenced to suffer death, at such place within their respective jurisdictions, as may appear to them most expedient, causing the body to be afterwards gibbeted* at or near to the spot where the crime may have been committed. The future sentences of the Nizamut Adawlut will accordingly not specify the particular place of execution; and the necessary alteration is to be made in the warrants of the court of circuit.

2. In exercising the discretion thus vested in the magistrates, they will of course be careful whenever a convict may be sent to any distance from the jail for execution, to appoint a sufficient guard for his safe custody, together with a responsible officer of the court, who, jointly with the commanding officer of the guard and the local police officers, after attending the execution of the prisoner, should make a written report of the due execution of the sentence.

* Gibbeting bodies is now prohibited. *Vide* No. 140, Vol. II.

3. The Court further desire that the magistrates will be careful to prevent any exactions from the inhabitants of the country, either at the place of execution, or where the body is gibbeted: and, with a view to prevent offence against the prejudices of the natives, the Court direct that no criminal be executed or gibbeted within any town, village, or other inhabited place, or so near to the house of any individual as to afford just ground of complaint.

NOTE.—See No. 180, Vol. I., and No. 42, Vol. IV.

TO THE COURTS OF CIRCUIT.

March 6, 1810. No. 66.

Instructions relative to the discharge of convicts under confinement in a zillah or city different from that in which they were committed for trial.

I AM directed by the Court of Nizamut Adawlut to communicate to you, for the information and guidance of the several magistrates within your division, the following instructions relative to the discharge of convicts sentenced by the courts of circuit, or Nizamut Adawlut, to temporary imprisonment, and confined under a sentence of banishment, or otherwise, in a zillah or city different from that in which they were committed for trial.

First.—Whenever a convict sentenced by a court of circuit, or the Nizamut Adawlut to temporary imprisonment, shall be in confinement at the approach of the period fixed for his discharge, in a jurisdiction different from that in which he was committed for trial, he shall be sent back (with the warrant containing his sentence, or an authenticated copy of it, if the warrant include other convicts who are not sent at the same time,) to the magistrate of the jurisdiction in which he was committed for trial, unless the magistrate having charge of the convict, on information of his intended place of residence, or for any other special reason, shall judge it proper to discharge him in his own jurisdiction, or to send him for discharge to the magistrate of a different jurisdiction, in which last case, he shall be sent to the magistrate of such jurisdiction; and the magistrate to whom the convict may be sent in such cases, shall carry into effect the warrant for his discharge, taking bail or not, as therein directed; or in particular cases requiring bail, though not directed in the warrant, if from any information before the magistrate of the prisoner's dangerous character, it shall appear indispensably necessary to adopt this precaution: Provided that in all such cases the prisoner, with a full report of the magistrate's information respecting him, shall be brought before the court of circuit at the next session, for the orders of that court.

Secondly.—The magistrate having charge of convicts to be discharged in another jurisdiction under the above rule, is to send them, in such custody as may appear sufficient, and with or without fetters, or with an iron on one leg only, as he may deem proper, to the

magistrate by whom they are to be discharged, so as to reach him before the expiration of their respective sentences ; and whenever a convict may have been committed for trial in a jurisdiction different from that to which he is sent for the purpose of being discharged, or may have resided before he was apprehended in a different district from that in which he was committed, and also from that in which he is sent for discharge, notice shall, at the same time, be given to the magistrate both of the jurisdiction in which he was committed for trial, and of that in which he formerly resided.

Thirdly.—The magistrate sending convicts from one station to another under these instructions, is to furnish them with a sufficient allowance for their subsistence on the way, at the prescribed rate of diet money for the calculated period of the journey ; but the allowance for one month's maintenance, not exceeding five rupees, to which convicts released after an imprisonment of six months, or upwards, and appearing to be in need of such assistance, are entitled under Section XXV., Regulation IX. 1793,* is to be paid to them by the magistrate who discharges them, and he is required to be particularly careful that such allowance is, in all instances, received without deduction, by the person entitled thereto.

The foregoing instructions (which are issued with the sanction of Government on the suggestion of the magistrate of zillah Hooghly) have in view not only the prevention of hardships to which convicts released at a distance from their places of residence are exposed, from their suspicious appearance, and consequent risk of being frequently seized and detained on their journey, but also to obviate, as far as practicable, the ill consequences that have been found to result from persons of dangerous character, and convicted of criminal offences, being released at the expiration of their sentences without the knowledge of the magistrate in whose jurisdiction they were apprehended and brought to trial, or in which they have resided after being set at liberty.

It is expected that the magistrates and police officers of zillahs, in which discharged convicts were apprehended and brought to trial, or in which they may intend to reside, being duly advised of their release, will take the requisite precautions to watch the conduct of the persons discharged, especially of such as may appear to be of dangerous character, and to guard against the repetition of criminal offences by them : the Court of Nizamut Adawlut therefore desire, that you will enjoin the strict attention of the magistrates to the rules now transmitted for their observance.

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* Clause 1, Section IV., Regulation XVI. 1795, for Benares, and Section XXV., Regulation VI. 1803, for the Ceded Provinces.

TO THE COURTS OF CIRCUIT.

March 18, 1810. No. 67.

Provisions of Regulation XIII. 1793, construed not to preclude a criminal prosecution on charges of corruption or extortion against native officers of the courts. Magistrates how to proceed in such cases.

A QUESTION having arisen, whether, under the provisions of Regulation XIII. 1793, (extended to Benares by Regulation XII. 1795, and re-enacted for the Ceded and Conquered Provinces by Regulation XII. 1803,) charges of corruption, or extortion, against the native officers of the civil and criminal courts, can in any case be prosecuted criminally, I am directed by the Court of Nizamut Adawlut to inform you (and to desire you will acquaint the several magistrates within your division,) that the Court do not consider the provisions in the Regulation above-mentioned, whereby the parties injured have the option of instituting a civil action, to preclude a criminal prosecution whenever there may appear to be sufficient grounds for it, as expressly authorized with respect to charges of corruption or extortion against the police darogahs by Section XXII., Regulation XX. 1793, (Section XX., Regulation XVII. 1795, for Benares, and Section XXI., Regulation XXXV. 1803, for the Ceded Provinces).

The Court are of opinion that in such cases, when the magistrate shall consider the information and evidence before him to be sufficient for bringing the parties accused to trial before the court of circuit, the prosecution should be public, and conducted by the vakeel of Government.

NOTE.—See Regulation XVIII. of 1817, Section VI., and Regulation III. of 1827, Section IV.

TO THE COURTS OF CIRCUIT.

April 17, 1810. No. 69.

Sepoys of the regular battalions to be exempted from the duty of guarding prisoners when taken out to ease themselves.

A QUESTION having arisen, whether the sepoys of Government employed on duty at the jails, should be required to guard the prisoners when taken out to ease themselves, I am directed to desire that you will acquaint the several magistrates within your division that the Honorable the Vice-President in Council has been pleased to determine that the sepoys of the regular battalions should be exempted from the duty above-mentioned; the magistrates will be guided therefore, by this rule, both now and hereafter, in the employment of the regular sepoys who may be placed under their orders.

TO THE COURTS OF CIRCUIT.

No. 70. *April* 27, 1810.

Rules respecting the enforcing the penalty of security-bonds, and limitation of the amount of security to be required.

A RECENT case before the Court of Nizamut Adawlut, in which it appeared that a prisoner convicted of robbery had, on a former occasion, been discharged under security for good behaviour, has induced the Court to consider the expediency of enforcing the penalty to which the surety is liable in such instances, with a view to discourage the common practice of persons for a pecuniary compensation, making themselves answerable for the conduct of men of bad character, over whom they have no influence, in the expectation that whatever may be the future conduct of those for whom they are responsible, their security will be regarded as nominal, and not put in execution.

To put a stop to this practice, the Court are of opinion that whenever a person who has given security for his good behaviour and appearance, may be convicted of a serious criminal offence, and may not have been delivered up by his surety, the latter should be called upon to show cause why the penalty to which he is liable by his engagement, should not be enforced; and that unless satisfactory reason be assigned against enforcing the security bond, in whole or in part, it should be put in execution, by the usual process for the recovery of money from the civil court, if not paid on the requisition of the magistrate.

The Court of Nizamut Adawlut accordingly desire, that you will attend to this point in any instances of the nature above-mentioned which may come before your court; and that you will direct the attention of the magistrates in your division to the subject of this communication, instructing them to make it known to all persons who may offer themselves as sureties for the conduct and appearance of men of suspicious character, in their respective jurisdictions.

The Court further direct that the magistrates be cautioned to limit their requisitions of security for good behaviour and appearance, to such sums as it may appear equitable to recover in the event of the conditions of the engagement not being performed; and that they be careful in ascertaining that the sureties accepted are sufficiently responsible to make good the amount eventually demandable from them.

NOTE.—See No. 74, Vol. I.

TO THE COURTS OF CIRCUIT.

June 25, 1810. No. 71.

Explanation of the mode of procedure prescribed by Section X., Regulation IX. 1808, in the event of any specific charge being preferred against a prisoner who may surrender or be apprehended on a proclamation issued under the above Regulation.

Judges of circuit how to proceed, in referring the case of a prisoner convicted under Section VIII. of the above Regulation.

It is provided by Section X., Regulation IX. 1808, that a conviction under the provisions of that Regulation shall not exempt a prisoner, so convicted, from being brought to trial on any specific charge of any other crime or offence, the nature of which may be such as to render him liable to an equal or a greater degree of punishment under the Regulations; and further, that, whenever a charge of this nature shall be preferred against a prisoner so convicted, whether before or subsequently to his being apprehended, or shall arise from any proceeding held against him, and there shall appear to the magistrate sufficient grounds for so doing, he shall bring the prisoner to trial, on such charge, before the court of circuit, under the established rules, as soon as may be practicable after the prisoner's surrender or apprehension.

Instances having occurred in which the proceedings held on the trial of prisoners under Regulation IX. 1808, for not appearing within the periods specified in proclamations published for their appearance under that Regulation, have been transmitted to the Nizamut Adawlut without any intimation of the prisoner's having been brought to trial on any charge of the nature specified in the preceding paragraph, I am directed by the Court of Nizamut Adawlut to desire that you will instruct the several magistrates within your division to bring to trial before the court of circuit, as soon as may be practicable, any prisoner who may surrender or be apprehended, in conformity with a proclamation issued under Regulation IX. 1808, whenever a specific charge, of the nature already stated, may be preferred against him and there shall appear sufficient grounds for his commitment.

I am further directed to desire that, whenever a judge of your court shall refer to the Nizamut Adawlut, the proceedings held by him on the trial of a prisoner, under Section VIII. of Regulation IX. 1808, he will also state, whether or not the prisoner has been tried or committed for trial on any specific charge, the nature of which may render him liable to an equal or a greater degree of punishment under the Regulations than that prescribed by the section above-mentioned, at the same time transmitting to the Nizamut Adawlut any proceedings held by him on the trial of the prisoner upon any such specific charge.

TO THE SEVERAL MAGISTRATES.

No. 72. *August* 2, 1810.

Persons held to security may be employed on public works with what restrictions.

REFERENCES having of late been made to this Court to know whether prisoners confined till they furnish security for their future good behaviour, may be employed in the construction of public works, or in the repair of public roads, I am directed by the Court of Nizamut Adawlut to acquaint you, that in conformity with the spirit of Section X., Regulation XXII. 1793, (or Section X., Regulation XXXV. 1803, in the Ceded Provinces,) you are at liberty to employ prisoners of the above description in the same manner, and with the same restrictions, as you are authorized to employ convicts by the Circular Orders of the Nizamut Adawlut, under date the 6th April and 10th of August 1796.

2. I am at the same time directed to desire that you will be careful not to employ the prisoners at any great distance from the sudder station, where they might be subject to difficulty in procuring sureties; you will endeavour as much as possible to keep prisoners of the above description distinct from prisoners convicted of specific offences; and you will understand that they are never, on any occasion, to be sent beyond the boundaries of your district.

TO THE COURTS OF CIRCUIT.

August 23, 1810.

No. 73.

Precautions to be observed by magistrates and courts of circuit in taking the confessions of prisoners, and examining the attesting witnesses.

SOME trials have been recently before the Nizamut Adawlut, in which there were strong grounds for believing that confessions have been procured from the prisoners at the thannas by very improper means, and that such confessions have been subsequently repeated and confirmed before the magistrates under the influence of those previous impressions.

2. The attention of the Court has, in consequence, been seriously engaged in considering whether any measures can be adopted calculated to repress practices so atrocious in themselves and so incompatible with a pure administration of justice. It having occurred to the Court that the following precautions will conduce to that important end, they have directed me to communicate them to you for your information, and to desire that you will extend the communication to the several magistrates within your division, for their information and guidance.

3. Experience having shown that accused persons sent into the common jail, without examination, are put on their guard by the other prisoners, and, in consequence, generally decline to make any confession or discovery when examined, several magistrates, to avoid this inconvenience, appear to have adopted the practice of examining

all persons sent in by the police officers, as soon as possible after their arrival at the station.

4. This practice, the Court observe, is well adapted to accomplish the object which it proposes; but is also attended with danger that the persons examined, when under strong impressions of any improper treatment which they may have experienced in the mofussil, may be induced, before they have had time to recollect themselves, to confirm fabricated and extorted confessions.

5. The Court remark that it will obviously require great circumspection on the part of the magistrate to guard against this danger. That the following are the precautions which naturally suggest themselves. The magistrate (or his assistant, if the latter be employed on such occasions,) to be mild and patient in his examination of the prisoners; to exert himself to ascertain whether they have been subjected to improper treatment in the mofussil; to make prisoners sensible that they are secure against such practices while under the magistrate's charge; to be particularly attentive that alleged mofussil confessions of prisoners be not recorded as confessions made before himself, from being read to prisoners and receiving their assent; but to satisfy himself, by making prisoners tell their own story, that their statements are deliberate and spontaneous; lastly, to be watchful that prisoners are not subject in the jail, or other places of confinement, to any continuance of the improper means to which they are liable at the thannas.

6. In one of the cases which have drawn the attention of the Court to this subject, a prisoner accounted for his having confirmed before the magistrate a false confession which the police officers had extorted from him, by stating that when examined in the fouzdarry court, he was surrounded by several of the persons who were concerned in the violence which he had suffered. The Court remark that this circumstance will show the magistrates the necessity of being cautious that the police officers under whose charge the prisoners are sent in, be not permitted to exercise any interference when they are examined.

7. The Court are further of opinion that the ill-treatment of prisoners might be greatly checked by attention on the part of the magistrates to enforce the rule contained in Section XVII. Regulation IX. 1807, which enjoins that the police darogahs shall, in all cases, despatch to the magistrates all persons apprehended by them, within forty-eight hours after their arrival at the thanna cutcherry. The Court have had frequent occasion lately to notice the infringement of this rule, and judge it therefore necessary to impress upon the magistrates the necessity of enforcing its strict observance.

8. The Court have also observed that confessions have been frequently procured from prisoners in the mofussil at unseasonable hours of the night, and in secret, and sometimes in solitary places, where only the police officers, or persons under their influence, have been allowed to be present: that altogether to prohibit secret exami-

nations, would lead to serious inconvenience; but that at the same time, the most vigilant attention of the magistrates, is obviously required to prevent the police officers grossly abusing this power; that such mode of proceeding can rarely be necessary, and that it ought of consequence to be the constant care of the magistrate to see that it is not adopted without adequate cause.

9. But with all these precautions, the Court remark, that the principal security against the practice of procuring false confessions, will consist in the careful investigation by the magistrates and courts of circuit of the cases coming under their cognizance; that the too easy admission of confessions will always operate as a temptation to impose false confessions on the courts; while, if they are received with circumspection, and all the additional evidence which the case may admit of, uniformly required and carefully taken, the fear of detection must prove a powerful discouragement to the practice.

10. The Court likewise desire to call the attention of your court to the necessity of carefully examining the witnesses to fouzdarry confessions, so as to ascertain that they have been made under the magistrate's immediate inspection, or that of his assistant, and under circumstances which excluded any improper interference or influence: the case which the Court have referred to above sufficiently establishes the expediency of these cautions.

11. The Court also rely on your court to enforce the observance of the preceding instructions to the magistrates, and to correct any irregularities which you may notice in their proceedings and the proceedings of their police officers, which may have escaped their animadversion.

12. It is only, the Court observe, by the constant exercise of this control that the regularity of proceeding can be secured, which is essential, not only to the prompt despatch of business, but to the highest interests, both of individuals and the community.

NOTE.—See Nos. 78 and 89 of Vol. I., and No. 54, Vol. II., paras. 20, 21, 22.

TO THE COURTS OF CIRCUIT.

No. 74. *August* 30, 1810.

Rules respecting the recovery of the penalty of a security bond from the estate of a person deceased.

Modes in which sureties may get discharged from their bonds.

A QUESTION having arisen, whether recognisances for the peace and good behaviour are merely personal, and the obligation of the penalty bond determinable with the life of the original surety, or whether the amount of the penalty be demandable from the estate of the surety, I am directed to desire, that you will circulate the following instructions for the information and guidance of the several magistrates within your division.

2. In cases wherein it may be necessary to enforce a penalty bond entered into by a surety for the peace, and it shall appear

that the surety is dead, the magistrate, in enforcing the engagement as directed in the Court's Circular Orders of the 27th April last, will proceed against the heirs and executors of the surety, to the extent of any property belonging to the deceased, which may have come to their hands.

3. Under the above rule, the magistrate will be careful in future that the penal engagement entered into by a surety, specifies the responsibility to which his heirs and executors will be liable in the event of his demise.

4. You will instruct the magistrates at the same time to cause it to be generally made known that sureties delivering up the persons for whom they are responsible, may at all times obtain a discharge from further responsibility, and direct them to attend to any application made to them for that purpose,—at the same time requiring the persons so delivered up, to find other and sufficient security.

5. In all cases when the surety may die, his representative will also have the option of obtaining a discharge by delivering up the party engaged for, as provided with respect to the surety himself in the preceding paragraph.

6. In carrying the above instructions into effect, when the magistrate may not receive any special orders from your Court or the Nizamut Adawlut, the Court authorize the magistrate to exercise his discretion in not enforcing the penalty, either wholly or partially, when the circumstances of the case may appear to call for indulgence, or any equitable reason may exist for dispensing with the penalty.

NOTE.—See No. 70, Vol. I.

TO THE COURTS OF CIRCUIT.

September 6, 1810. No. 75.

Magistrates how to proceed in summoning persons to give evidence before the courts of circuit, and with what precautions to pay the diet money allowed to indigent prosecutors and witnesses.

THE Court of Nizamut Adawlut having had their attention drawn to the severe hardships to which prosecutors and witnesses are occasionally subjected, by a protracted detention at the sudder station during the time of session, and it being desirable that individuals should be relieved as much as possible from the inconvenience attending their being summoned to give evidence before the courts of circuit, and the Court judging it of moment that the heavy expense to which Government is at present subject on account of diet money to indigent prosecutors and witnesses, should be reduced as far as circumstances will admit, I am directed to desire that you will communicate the following instructions to the magistrates of the several districts comprising your division.

2. The magistrates, on receiving intimation from the judges of circuit of the date on which they propose to commence the jail deliveries of their respective stations, will summon the prosecutors and wit-

nesses in a few only of the first trials on the calendar, and are desired to be careful that they are in attendance against the judge's arrival

3. As soon as the judge of circuit arrives and the circuit duty commences, the magistrate will proceed to issue the customary process for the attendance of the prosecutors and witnesses in a few more of the trials, and so on in regular succession according to the calendar.

4. The magistrates, in carrying the above orders into execution, will hold it in mind that the two objects to which their attention is particularly required, are, the relief of prosecutors and witnesses from unnecessary detention to give evidence on the trials, and the preventing interruption to the sittings of the judge of circuit, from delay in causing their attendance when the trials on which they are summoned are brought forward.

5. The magistrates, in paying the prescribed allowance to indigent prosecutors and witnesses, will be careful to ascertain the actual attendance of the parties on the courts of circuit, and are desired to establish such checks as may appear to them most effectual, to guard against overcharge by the native officers on this account.

6. The detailed accounts for diet money will be countersigned by the judge of circuit, holding the jail delivery.

NOTE.—See No. 91, Vol. I. and No. 125, Vol. II.

TO THE COURTS OF CIRCUIT.

December 27, 1810.

No 77.

Modification of former orders respecting the immediate trial of prisoners committed during the session of the court of circuit.

A QUESTION having been submitted to the Nizamut Adawlut respecting the immediate trial of prisoners committed by a magistrate, whilst the court is sitting, I am directed to communicate to you the following instructions, in modification of the order issued by the Nizamut Adawlut on the 30th November, 1796, and 13th April, 1808.

2. In order to prevent the indefinite detention of the court of circuit by the trial of commitments made after their arrival at the several zillah stations, the Court direct that the magistrates be restricted to one supplementary calendar, including persons committed or held to bail for trial before the court of circuit, during the session of the court, on the trial of the prisoners named in the original calendar.

3. You are requested to communicate a copy of these orders to the several magistrates within your division.

NOTE.—See Nos. 9 and 49, Vol. I.

TO THE COURTS OF CIRCUIT.

January 4, 1811.

No. 78.

Circulating orders of Government respecting the exertions necessary to prevent confessions being extorted from persons accused, and the circumspection to be used in the employment of goindahs.

I AM directed by the Court of Nizamut Adawlut, in continuation of the orders communicated to you in my circular letter of the 23d of August last, to transmit to you the accompanying extract of a letter, from the Secretary to Government in the Judicial Department, dated the 21st ultimo, and to desire, that you will communicate the same to the several magistrates within your division.

Extract of a letter from the Secretary to Government in the Judicial Department, dated December 21, 1810.

PAR. 3. The Governor General in Council has learned with deep concern, the offence committed by some of the darogahs of police in that zillah, of extorting by threats and intimidation unfounded confessions from persons apprehended. His Lordship in Council would hope, with the Nizamut Adawlut, that this criminal practice may not be so prevalent as appears to be supposed by the acting judge; but the facts stated by Mr. Watson are sufficient to show that every possible exertion should be made for the prevention of this serious evil in future. The Governor General in Council approves generally the orders passed by the Nizamut Adawlut on this point.

PAR. 5. The Governor General in Council has observed with equal concern, the grounds which exist for apprehending that acts of great violence and extortion have been committed by the goindahs, noticed in the 11th paragraph of the Court's resolutions. These cases being under investigation, the Governor General in Council has no particular orders to pass on the subject further than to observe that the magistrates cannot be too strongly enjoined to observe the utmost circumspection in the employment of instruments of that description, and to take immediate measures for bringing to condign punishment any of them who may be guilty of the above, or any other criminal offence.

NOTE.—See No. 73, Vol. I.

TO THE COURTS OF CIRCUIT.

January 4, 1811.

No. 79.

Magistrates how to proceed in the cases of natives implicated in offences with European British subjects.

AN instance having recently occurred of a magistrate's committing the servants of an English gentleman to take their trial before the court of circuit, on a charge of being concerned with their master in the commission of an offence for which he has been ordered down to the presidency to take his trial before the Supreme Court, and it being expedient that all parties in cases of a nature similar to that

here referred to, should be tried by the same tribunal, the Court desire that you will instruct the several magistrates within your division to refrain from trying themselves, or committing for trial before the court of circuit, natives charged or suspected of being concerned with British subjects in the commission of offences, until they have made a reference to the Court of Nizamut Adawlut, and have been furnished with instructions for their guidance in the case.

TO THE COURTS OF CIRCUIT.

No. 80.

January 17, 1811.

Penal engagements in what cases not to be taken.

Restrictions to the powers of zemindars in matters of police.

Explanation of Section XVIII. Regulation XVI. 1810.

I AM directed by the Court of Nizamut Adawlut to transmit to you the accompanying extract of a letter from the Secretary to Government in the Judicial Department, dated the 11th instant, and to desire, that you will communicate the same to the several magistrates within your division, for their information and guidance.

Extract of a letter from the Secretary to Government in the Judicial Department, dated the 11th January, 1811.

PAR. 2.—The mochulkas taken either in conformity to the orders of the Nizamut Adawlut of the 31st May 1809, or in consequence of a misconception of the intent of those orders, appear to be of three descriptions; 1st, Those taken from the zemindars themselves; 2ndly, Those taken from the munduls, or principal persons in each village; and 3dly, Those taken (accompanied with security) from the ryuts.

3. Although mochulkas or penal engagements may be convenient and unobjectionable in instances in which only individuals are concerned, the Governor General in Council is decidedly of opinion that in cases affecting whole classes of the people, the proper course is, to prescribe the duty to be performed by them by a Regulation, with the adequate penalties for neglect of its provisions. The Governor General in Council would have entertained these sentiments had the present question respected only much smaller bodies of the people than must have in fact been affected by its operation; but when it is considered that, under the threefold distinctions already stated, mochulkas must have been taken from a large proportion of the general population of the country, and that the mochulkas were not taken at least in two out of the three cases above stated directly by the magistrates, but by the zemindars and munduls, the Governor General in Council cannot but apprehend, with some of the local officers, that the requisition of those instruments may have been attended with considerable abuse and extortion.

4. With these sentiments the Governor General in Council is entirely of opinion that the magistrates should be prohibited from

requiring any further mochulkas of either of the descriptions noticed at the commencement of this letter, or from acting upon those already executed. Considering the numbers which must have been taken, it might be attended with inconvenience formally to annul them, but Government is entirely of opinion that they should be rendered inoperative.

6. The Governor General in Council entertains considerable doubts regarding the expediency of investing the zemindars with power to apprehend persons on the ground of their being known robbers, and persons coming under the appellation of vagrants.

7. The abuses formerly committed by the zemindars, when invested with power in matters of police, are notorious. The truth of this position is recognised in the preamble to Regulation XXII. 1793. The policy of Government, especially during the last two or three years in which the police has engaged so much of the attention of the Governor General in Council, has been to restrict the agency of the zemindars and others to the communication to the magistrate, and other officers of police, of early information respecting the commission of public offences, within the limits of their respective estates, (in the performance of which duty it is not easy for them to commit any abuse or oppression,) but to withhold from them all positive power of interference in matters of that nature, in which experience had shown that they could not safely be trusted. It will of course be understood that the zemindars, like any other individuals, are competent to apprehend persons in the actual commission of public crimes.

13. The Governor General in Council would suppose that Section XVIII. Regulation XVI. 1810, as it present worded, would be considered applicable to any meritorious service rendered (to use the terms of your letter) in the discovery and apprehension of persons really "notorious as robbers." But if not, His Lordship in Council thinks that it might be explained in an order from the Nizamut Adawlut. His Lordship in Council is at the same time of opinion that the provision in question should not be considered applicable to persons coming under the vague description of "vagrants," as he is apprehensive that such a construction of it might be productive of much vexation to the community, especially to travellers.

TO THE SEVERAL COURTS OF CIRCUIT.

January 17, 1811.

No. 81.

Conduct to be observed by magistrates in cases of persons apprehended on sus-

THE attention of the Court of Nizamut Adawlut having been seriously attracted to the great hardships endured by persons apprehended solely on suspicion of bad livelihood, or on information of notoriety of bad character, owing to the inquiry into such suspicion or information being unavoidably protracted by the numerous avoca-

picion of bad livelihood, &c.

tions of the magistrate, I am directed, in pursuance of instructions received from Government, to transmit to you the orders subjoined, and to desire that you will communicate the contents to the several magistrates within your division, and that you will require a strict observance of the same on holding the jail delivery at each station.

2. Whenever persons may be apprehended on suspicion of bad livelihood, or information of notorious character only, the magistrate shall, with the least possible delay, make such inquiry as may appear necessary to ascertain the grounds and truth of such suspicion or information; and if the party suspected, or informed against, be able to give sufficient bail for his appearance during the magistrate's inquiry, he shall be admitted to bail accordingly.

TO THE COURTS OF CIRCUIT.

No. 82.

January 21, 1811.

Magistrates desired to promulgate certain parts of Clause 1, Section VI. Regulation IX. 1807, for general information.

THE Nizamut Adawlut having observed in several cases recently under their consideration, that persons have declined preferring complaints to the magistrates through apprehension of their attendance being required to make oath of the validity of the charge, the Court judge it necessary that such parts of Clause 1, Section VI., Regulation IX. 1807, empowering the magistrates to dispense with an oath and the attendance of the complainant in particular cases, should be promulgated for general information, and accordingly desire that you will instruct the magistrates to adopt the proper measures (if they have not already done so) for making the provisions of the Regulation above noticed, generally known throughout their respective jurisdictions.

TO THE COURTS OF CIRCUIT.

No. 88.

May 2, 1811.

Persons who may be incapable of, or exempted from bodily labour, not to be sent to the Allipore jail.

IN continuation of the letter addressed to you under the orders of the Nizamut Adawlut, on the 10th January last, regarding the removal of certain convicts from the different zillahs within your division, to the jail of zillah Twenty-four Pergunnahs, I am directed by the Court of Nizamut Adawlut to request, that you will issue the necessary instructions to the several magistrates, to be careful not to forward to the presidency any persons who may be incapable of bodily labour, from age, sickness, or other infirmity; or who may have been exempted from bodily labour by their sentences, or in consideration of

their former rank and situation in life, under the Circular Orders of the Nizamut Adawlut, dated the 6th April and 10th August 1796, and 28th of March 1807.

NOTE.—See No. 7, Vol. I.

TO THE COURTS OF CIRCUIT.

June 13, 1811.

No. 89.

Confessions in the mofussil how to be taken.

I AM directed by the Court of Nizamut Adawlut to communicate to you the following instructions, in continuation of those contained in my letter of the 23rd of August last*, on the subject of confessions taken in the mofussil; and to desire that you will circulate the same to the several magistrates within your division, for their information and guidance.

1st. The confession should be witnessed by three or more creditable persons, (as required by Section XVII., Regulation IX. 1807,) who can sign their names, and are not officers of the police, or connected with the thanna establishment.

2nd. All confessions committed to writing should be taken down in the presence of the subscribing witnesses, and immediately signed and attested; and the police officer taking the same, should state, at the foot of the confession, the date, hour, and place at which it was taken, signed, and attested. This instruction, the Court remark, will not preclude the police darogah from making any private verbal examination, which he may deem requisite, with the view of ascertaining accomplices, or finding stolen property or means of proof.

3rd. The original confession, *viz.* that bearing the original signatures of the party and witnesses, to be invariably transmitted to the magistrate, and not a copy.

4th. When the confession may be taken at night, or at any other place than the police thanna, the special reason for its having been so taken, should be stated in the darogah's report, with information of the date and hour at which the prisoner was apprehended, and brought to the thanna.

5th. The magistrate, in examining the witnesses to a written confession, should be careful to ascertain that they, as well as the party confessing, were fully informed of the contents of it. To secure this object, the police officers should also be enjoined in all instances, after taking down a confession, to cause it to be read over to them in the presence of the party and witnesses, before it is signed and attested.

* See No. 73, Vol. I.

TO THE COURTS OF CIRCUIT.

No. 91. *July* 16, 1811.

The payment of the allowance authorised to be made to prosecutors and witnesses in attendance on the courts of circuit, to be restricted to persons really indigent.

IT having been represented to the Court of Nizamut Adawlut that a practice prevails among some of the magistrates, of paying the allowance authorized by the Regulations to be made to prosecutors and witnesses in attendance on the courts of circuit, indiscriminately to all of them, and that provision being expressly declared to be intended for indigent persons only, who may really be in need of such assistance, I am directed by the Court to desire that you will issue the necessary instructions to the several magistrates within your division, for restricting, in future, the payment of the allowance in question, to such prosecutors and witnesses attending the sittings of the judge on circuit as are really indigent, especially, when they may not have been long detained from their usual occupations.

NOTE.—See No. 75, Vol. I.

TO THE COURTS OF CIRCUIT.

No. 93. *July* 18, 1811.

Transmitting extracts of several letters from the Secretary to Government, containing instructions relative to the employment of goindahs as spies in aid of the police; enjoining strict attention to the provisions of Regulation XI. 1807, respecting the issue of criminal process; prohibiting magistrates from intrusting any authority to goindahs; and informing them of the mode of paying those persons for their services.

I AM directed by the Court of Nizamut Adawlut to transmit to you for your information, and to desire you will communicate to the several magistrates within your division, for their information and guidance, the accompanying extracts of letters from the Secretary to Government in the Judical Department, under dates the 13th June and 4th August, 1809, and 5th April, 1811, relative to the employment of goindahs as spies or informers in aid of the police.

2. These instructions are circulated by order of Government, in consequence of a recent instance, wherein several persons were apprehended, and others proclaimed, on the vague accusation of two informers, who, on inquiry, were not able to establish any part of the charge preferred by them, and who, on examination, were not found to possess any personal knowledge of the facts charged by them.

3. The Court observe that the oppressive consequences which in this instance resulted from issuing process on the unsupported information of the goindahs, would have been obviated by a due regard to the provisions in Regulation IX. 1807, which, to warrant the issue of process on criminal charges, by the magistrates or police officers, require that the truth of them be deposed to, either by the complainant, if attending and present at the commission of the act complained of, or if not, by one or more persons present, or otherwise personally informed of the truth of the complaint. It is, indeed, provided in the latter part of Section IV. of the Regulation above-mentioned, that the rule therein prescribed shall not be construed to restrict a magis-

trate from issuing process to apprehend a person suspected of having committed a heinous crime, or for whose apprehension sufficient cause may appear upon the report of a police officer, or upon any other credible information. But a just exercise of this discretion by the magistrates, would evidently require strong and sufficient ground of suspicion, or more credible information than that of a common goindah personally unacquainted with the truth of the facts represented by him. The Court further remark that this discretion is not extended to the police darogahs.

4. You will enjoin the magistrates within your division to be careful in observing the strictest adherence to the provisions of the Regulation above-mentioned ; and especially, in receiving any criminal charge or information from a person known to be a goindah, or public informer, to be cautious not to issue any process against the accused, without satisfactory evidence of the truth of the accusation.

5. The manner in which it is deemed expedient to employ goindahs as spies to discover the haunts of robbers, to watch their movements, and to convey intelligence to the magistrate of their operations, or designs, being fully stated in the accompanying instructions, the Court do not judge it necessary to enlarge further on this point. The Court direct, however, that the magistrates be enjoined not to intrust the execution of any criminal process to a goindah, nor to allow any authority whatever to be exercised, directly or indirectly, by any person of this description. Also, that the utmost vigilance be observed to prevent every possible abuse (especially with regard to confessions, and the finding stolen or plundered property) in all cases wherein a goindah may be employed, or may have given information, or have interfered in any respect whatever.

6. The Court are of opinion that the darogahs of police should be prohibited from giving any encouragement to professional goindahs, and from employing them in any manner, without the knowledge and express sanction of the magistrate. They should also be restricted from apprehending any person, without a regular charge, except in the cases expressly authorized by the Regulations ; or if any exception be allowed, to prevent escape, with respect to persons named by confessing prisoners as accomplices, (for the usual process against whom there is no express provision in the Regulations,) the immediate seizure, without previous communication to the magistrate, in such instances, should be confined to persons of suspicious character, or who, there may be reason to believe, would abscond if not apprehended before the orders of the magistrate could be received on a report of the circumstances of the case.

7. You will observe, from the 15th paragraph of Mr. Secretary Dowdeswell's letter of the 13th June 1809, in what manner the persons whom the magistrates may think it expedient to employ as spies should be paid for their services ; and the Court direct me to add that any requisite fixed allowances which the magistrates may pay to such persons, should be charged in their contingent bills. But any rewards for meritorious service which may be done by them, will come within the provisions of Section XVIII., Regulation XVI. 1810.

Extract of a Letter from the Secretary to Government in the Judicial Department, dated the 13th June, 1809.

PARA. 10. A great deal of misconception has existed with respect to the means employed by Mr. Blaquiere in the apprehension of dacoits. Two distinct classes of people, the goindahs (informers) and the geerindahs (persons employed to apprehend), have been strangely confounded in the discussion which has taken place on this subject. This misconception is the more extraordinary, as their respective duties can scarcely be more clearly described than they are by the use of the two very common Persian words by which they are respectively designated.

11. The established duty of the goindahs is, to discover the haunts of the dacoits, to watch their movements, to mix with them occasionally with the view of obtaining accurate intelligence respecting their operations and designs for their employer, to communicate to him the result of their observations and inquiries, and finally, to point out to the geerindahs, who are usually regular police officers, the persons of the individuals whom the magistrate in the discharge of his public functions, may order to be apprehended.

12. Another mistake equally palpable, appears to exist with respect to this question. It seems to have been supposed that Mr. Blaquiere is in the habit of issuing general warrants, that is, of granting to his police officers a commission for the apprehension of suspected persons, without previously informing himself of their names, or taking any other means to identify the individuals. But from all the inquiries which have been made on the subject, it does not appear that Mr. Blaquiere ever issued a commission of this nature. At all events, goindahs ought only to be employed in the manner stated in the preceding paragraph. With respect to general warrants, (if they ever have been issued,) they should be altogether discontinued.

13. Of the efficiency of those agents, no doubts can reasonably be entertained. Long lists might be produced of criminals whose apprehension is entirely ascribable to the services of goindahs; but not being a matter of official record, it may be sufficient for the present to notice the case of Gungaram, a notorious and atrocious offender of the zillah of Nuddea, who, by the uncommon skill of Mr. Blaquiere, and by his judicious employment of the agency of goindahs, was recently apprehended under an assumed name at Patna, at a distance of five hundred miles from the Presidency.

14. It is an incontrovertible fact that the darogahs themselves employ goindahs. Now, it seems evident that if they are to be employed at all, they must be less capable of committing abuse under the watchful eye of a gentleman of character, talents, and experience, than under the control of darogahs almost as unprincipled as themselves.

15. Another point worthy of consideration is, that when goindahs are employed by Mr. Blaquiere, or the superintendent of police, they are paid in a much less exceptionable manner than when they are employed by the darogahs. In the former case, they receive a small

monthly allowance for their immediate subsistence, and are rewarded for any particular duty according to the judgment which may be formed of their activity and fidelity by their employer, whether the persons apprehended through their means are convicted or otherwise. The darogahs, on the other hand, have no other means of remunerating the goindahs employed by them, but with a portion of the rewards paid under the Regulations for the conviction of criminals. In such case it seems natural to conclude that the darogahs will consult only their own avarice and the demands of the goindahs, and that they will listen little to the calls of justice and humanity when evidence might be obtained through their means for the justification of individuals charged with the commission of public offences.

Extract of a Letter from the Secretary to the Government, in the Judicial Department, dated the 4th August, 1809.

PARA. 3. It does not appear clear to the Governor General in Council whether, by the suggested extermination of goindahs and the discouragement of the old goindah system, the provincial court of Moorshedabad mean only the abolition of the powers heretofore, sometimes so very injudiciously, granted to persons of that description, or whether they mean the entire suppression of spies and informers in the conduct of the business of the police.

4. In the former case, it is only necessary to remark, that the Governor General in Council is impressed with the strongest sense of the danger and mischief which might arise from the delegation of such powers to goindahs. If, however, the provincial court mean the uniform suppression of spies and informers in the conduct of the business of the police, the Governor General in Council desires that the provincial court my be prohibited from issuing any orders to the magistrates to that effect.

5 The restrictions under which persons of that description should be employed, and the benefits which may be derived from their services, are stated in the orders of Government of the 13th June last.

Extract of a Letter from the Secretary to the Government, in the Judicial Department, dated the 5th April, 1811.

PARA. 8. In the different discussions which have taken place respecting the employment of spies and informers, Government has not failed to inculcate the great circumspection which should be observed in the employment of those instruments, and in receiving the information which might be furnished by them.

10. The Vice-President in Council deems it further necessary to desire that if the magistrates generally are not already apprised of the mode in which spies and informers should be employed, they may be furnished with the necessary instructions on that point, as stated in my different letters to you on that subject.

TO THE COURTS OF CIRCUIT.

July 25, 1811. No. 94.

A REPRESENTATION having been made to the Court of Nizamut Adawlut that considerable inconvenience is occasionally experienced by the magistrates, in consequence of the transmission of the original proceedings of the magistrates, without a copy being kept, in trials referred to this Court, I am directed to communicate to you the following instructions, and to desire that you will

Magistrates to make application to the judge of circuit whenever they may judge it necessary to

*

take a copy of their proceedings in a trial referrible to the Nizamut Adawlut.

Judge of circuit how to proceed in case of non-compliance with the magistrate's application.

circulate the same for the information and guidance of the several magistrates within your division.

2. Whenever a magistrate may judge it necessary to take a copy of the whole, or any part of the original proceedings held by him, in a trial referrible by the court of circuit to the Nizamut Adawlut, either on account of some of the persons charged with the same offence not having been apprehended, or from any other cause, the magistrate is to make application to the judge holding the jail delivery, to be allowed to take a copy or extract of such proceedings before the transmission of them to the Nizamut Adawlut, and the judge of circuit, unless in any particular instance the immediate transmission of the trial to the Nizamut Adawlut may appear to him indispensably necessary, is to comply with such application. The magistrate, having taken the copy or extract required by him, is to return the original proceedings without delay to the judge of circuit, who will then transmit the same, with the proceedings of the court of circuit, to the Nizamut Adawlut.

3. In cases wherein the judge of circuit may deem it necessary to submit the trial to the Nizamut Adawlut, without giving the magistrate an opportunity of taking a copy or extract of the proceedings held before him, the judge of circuit is desired to state the circumstance, in his letter accompanying the trial, to the Nizamut Adawlut, who will either take up the trial immediately, or will cause the magistrate to be furnished with the copy or extract desired by him.

NOTE.—See para. 3, No. 27, Vol. I.

TO THE COURTS OF CIRCUIT.

No. 95.

August 1, 1811.

Magistrates to furnish magistrate of Twenty-four Pergunnahs with particular information relative to convicts sent to his jail, who may be of notorious or dangerous character.

THE acting magistrate of zillah Twenty-four Pergunnahs having represented the necessity of his being furnished with information relative to such of the convicts as have been forwarded by the magistrates to the presidency, who may be of notorious and dangerous character, I am directed by the Court to desire that you will instruct the several magistrates in your division, as soon as possible after the receipt of these instructions, to point out to the magistrate such of the convicts of the above description as have hitherto been removed from their district to the jail of Twenty-four Pergunnahs; and that they are to be careful hereafter to furnish the magistrate of Twenty-four Pergunnahs with similar information in respect to any other prisoners who may be ordered to be removed to the presidency, inserting such information in the descriptive statement already required to accompany them.

NOTE.—See No. 7, Vol. I.

TO THE COURTS OF CIRCUIT.

No. 101.

September 5, 1811.

Informing them of the resolution of the Court to transmit, along with the sentence or orders passed by the

IT has been suggested to the Nizamut Adawlut that it would afford useful information to the law officers of the courts of circuit, if they were furnished with the futwas delivered by the law officers of the Nizamut Adawlut in trials decided by that Court, and the Court, entirely concurring in the expediency of the measure, direct me to acquaint you that they have resolved upon the

general adoption of it in future. An attested copy of the futwa of the law officers of this Court, will accordingly hereafter accompany the sentences or orders passed by the Nizamut Adawlut on all trials decided by them.

Nizamut Adawlut on trials decided by them, an attested copy of the futwa of their officers; and directing that the law officers of the court of circuit be instructed to render their futwas explicit as to the nature of the crime and the evidence by which it is established.

The Court having observed in several trials referred to them that the futwas of the law officers of the court of circuit are not sufficiently explicit, frequently declaring the prisoner liable to discretionary punishment, without stating the specific crime of which he is convicted, I am directed to take this opportunity of desiring that you will require the law officers of your court to be careful, in the futwas delivered by them in future, to specify the crime which they consider to be established against any prisoner or prisoners declared liable to punishment, whether the conviction be founded on full legal proof, or on presumptive evidence.

NOTE.—See No. 185, Vol. I.

TO THE COURTS OF CIRCUIT.

October 24, 1811.

No. 103.

Discretion to be with the magistrates in regard to the period of carrying into execution sentences of capital punishment.

WITH a view to obviate the serious inconveniences noticed in the following extract from a letter from the commanding officer of the corps of Hill Rangers at Bhagulpore, and at the same time to enable the magistrates to execute criminals, sentenced by the Nizamut Adawlut to capital punishment, in conformity to the Court's Circular Orders, of the 5th of March, 1810, the Court desire, that in issuing your warrants to the magistrates in future, you will leave a discretion with them, in regard to the period for carrying such sentences into execution, specifying in the warrants* on a certain date, or as soon after, as circumstances may admit.

Extract of a Letter from the Commanding Officer of the Corps of Hill Rangers to the Adjutant General, under date the 23rd September, 1811.

"It has been customary to execute a person on the spot, whose body is to be hung in chains at a great distance, without the least consideration of the season of the year in respect to the heat, prevailing winds, or state of the roads as to inundation, &c., &c.

"In September, 1809, a convict was executed here, to be hung in chains on the hills below Rajmehal. The body was conveyed hence by water to Rajmehal, and then carried to its destination, which, owing to adverse winds and bad roads, took up a period of twelve days.

"I took an opportunity of speaking to the judge and magistrate of the danger and impropriety of this proceeding, who said that the like should not occur again, but the person should be taken to the place and executed, where the body was to be hung in chains; notwithstanding, a convict was hanged here on the 12th instant, and the body conveyed about thirty miles above Monghyr, to be hung in chains; it was taken in a boat as far as Surageegurrah, and then carried on a cot inland by *dooms*, which in all took up five days.

"I shall refrain from an attempt to describe the shocking state of the bodies of the deceased in these two instances; the sepoy guard and others who were obliged to attend and handle the corpses not only run the risk of infection, but

* Altered in pursuance of an order of Government, under date 4th November 1811, as follows:—"On or before the —— instant, or (according to circumstances) —— proximo."

of causing a pestilence. I understand that the magistrate could not act otherwise, agreeably to the orders he had received, as the time fixed for execution would not admit of sending the convict to the spot in the interval."

TO THE COURTS OF CIRCUIT.

No. 104. *November* 15, 1811.

Law officers of the courts of circuit to be instructed to avoid the use of the term *Gharutgaree*, when it is their intention to convict a prisoner of robbery, and in all cases to be careful to use the proper term appropriated by the Mahomedan law, or by usage, to designate the offence of which a prisoner is convicted.

THE Court of Nizamut Adawlut having observed that in the futwas of some of the law officers of the courts of circuit, the crime of robbery by open violence, as defined in the first clause of Section III., Regulation LIII. 1803, is denominated by the ambiguous term *Gharutgaree*, which might be applied to acts of plundering distinct from robbery, I am directed to desire you will caution your law officers not to use the above term in future when it may be their intention to convict the prisoner of the crime of robbery, which, as noticed in the Section and Clause above referred to, is designated in the Mahomedan law by the term *Surka i Koobra*, and more commonly *Shub Khoonee*, or *Dukyutee*, unless it be a robbery on the highway, in which case it is usually called *Kutaoot tureekee*.

2. The Court further desire, in addition to their circular instructions of the 5th September last for stating in the futwa the specific crime considered to be established against every convicted prisoner, that your law officers will be careful to use the proper term which has been appropriated in the Mahomedan law, or by usage, to designate the offence of which the prisoner is convicted.

TO THE COURTS OF CIRCUIT.

No. 105. *December* 4, 1811.

Judges of circuit to specify on the record their opinion of the age of any prisoner whose statement on that point they may consider inaccurate.

THE Court of Nizamut Adawlut being frequently at a loss to ascertain the ages of prisoners with any degree of accuracy, in trials referred for their decision by the courts of circuit, in consequence of the uncertainty often expressed by the prisoners themselves with respect to their ages, and of the different accounts often given by them on that head, I am directed to desire that you will make it a rule in future in all trials referred by you to this Court, whenever you may have reason to believe that a prisoner has stated his age inaccurately, to specify on the record of the trial your opinion of the apparent age of the prisoner.

TO THE COURTS OF CIRCUIT.

No. 110. *March* 5, 1812.

Explanation of the powers of judges of circuit in cases of theft.

THE Court of Nizamut Adawlut having observed that the courts of circuit in frequent instances, adjudge prisoners convicted of theft to receive a certain number of stripes and to be confined seven years, and the Court understanding that such sentences are considered to be authorized by the seventh Clause of Section II., Regulation LIII., 1803, I am directed to point out to you that the above-mentioned clause is expressly applicable to cases in which the crime of which "a prisoner is convicted, and for which he is declared liable to discretionary punishment, shall neither have been specifically provided for by any Regulation, nor by any stated penalty in the Mahomedan law."

2. The crime of theft, when legally established, and the stolen property amounts to ten dirms, being within the provisions of Hudd, under the Mahomedan law, and subjecting the offender to the amputation of a limb, (commutable under the Regulations to imprisonment for seven years,) the Court observe that this offence, when not attended with burglary, (so as to bring it within Sections II., III. and IV., Regulation I. 1811*,) is provided for by the third, fourth, and fifth Clauses of Section II., Regulation LIII. 1803, supposing the prisoner declared liable to discretionary punishment, or by Section V. of that Regulation, when the prisoner may be declared subject to a sentence of Hudd.

3. In either case, therefore, (*viz.* when a prisoner, convicted of theft only, may be declared liable to a sentence of Hudd, or of discretionary punishment,) the Court are of opinion that, under the existing Regulations, he cannot be sentenced to a heavier punishment than seven years' imprisonment without stripes, and consequently that when the judge of circuit, in discretionary cases, may deem it expedient to adjudge stripes, the period of imprisonment in addition should in no instance exceed six years, nor should it, the Court observe, be for so long a period, wher the futwa of the law officer (as noticed in the fifth Clause of Section II., Regulation LIII. 1803) may declare the penalty of Hudd to be "remitted or mitigated by the provisions of the Mahomedan law, in consideration of circumstances which alter the nature, and diminish the criminality, of the offence."

TO THE COURTS OF CIRCUIT.

April 2, 1812. No. 111.

A judge of circuit taking further evidence in a postponed trial, to complete the same by passing sentence.

A judge directing such postponement, to record his reason for doing so, and the specific points on which further evidence is required.

A DOUBT has been entertained whether, in a trial postponed by a judge of circuit at a monthly, quarterly, or half-yearly session of jail delivery, for further evidence to be taken at a subsequent session, the judge taking the further evidence on such trial, should complete the same by passing sentence, or whether, after taking the further evidence required, he should transmit the record of the trial in question, with the additional proceedings held on it, to the judge directing the postponement, to enable the latter to pass sentence.

2. That a uniform rule of practice may be observed in such cases, the Court direct me to communicate to you their opinion that it is the duty of the judge taking the further evidence on a postponed trial, to complete the same by passing sentence.

3. But the Court are at the same time of opinion that it is incumbent on the judge, who may postpone passing sentence for further evidence, to be taken at a subsequent session, to record his reasons at

* Extended to the Ceded and Conquered Provinces, and Benares, by Regulation XV. 1812.

large for directing the postponement, with the specific points on which further evidence is required, and any observations upon the credit of the witnesses already examined, or other remarks upon the evidence already taken, which may appear requisite for the information of the judge and law officer at the ensuing session.

TO THE COURTS OF CIRCUIT AND MAGISTRATES.

No. 112. *May* 7, 1812.

Transmitting letter of the Secretary to Government, enjoining caution in addressing publications of a general nature to the inhabitants of the provinces.

THE Court of Nizamut Adawlut direct me to to transmit for your information and guidance, the accompanying copy of a letter from the Secretary to Government in the Judicial Department, dated the 25th ultimo, together with copy of the letter to the late acting magistrate of zillah Behar, therein referred to.

To the Register of the Nizamut Adawlut, April 25, 1812.

I am directed to desire, that you will lay before the Nizamut Adawlut, the accompanying copy of a letter this day written to Mr. T. Sisson, the late acting magistrate of Behar, and acquaint the Court, that the Right Honorable the Governor General in Council desires that they will communicate generally the sentiments expressed in it to the courts of circuit and to the magistrates, for their information and guidance.

To Mr. T. Sisson,

SIR, *April* 25, 1812.

Judicial Department.

I am directed by the Right Honorable the Governor General in Council to acknowledge the receipt of a letter from you, dated the 22nd instant.

2. The Governor General in Council does not deem it necessary to suspend his orders regarding the publication to which your letter refers, until further inquiries can be made for the purpose of ascertaining the precise number of Pindarees, who are computed in it to have invaded the British territories. It is sufficient to remark on that point that whether the estimated number was 10,000, 12,000, or 15,000, it was in either case vastly exaggerated.

3. The Governor General in Council doubts not that you were actuated by the properest motives in issuing the publication in question. His Lordship in Council is at the same time of opinion that the terms of it, instead of being calculated to infuse among the people a confidence in their own strength and exertions, and to excite a spirit

of resistance to the plunderers, agreeable to your laudable intention in issuing it, had, on the contrary, a tendency to create only discouragement and alarm.

4. It is intimated in your letter that none of the zemindars would have ventured to have entertained armed men for the purpose of repelling the Pindarees without the authority of the magistrate; but supposing such authority to have been requisite, and the circumstances of the moment to have rendered it advisable to grant it, the Governor General in Council would have supposed that you could have experienced little difficulty in furnishing them with the required authority, in a form and in terms free from the objections to which the publication in question (as already noticed) is subject.

5. The Governor General in Council takes this occasion to inculcate the propriety of great caution and reserve in addressing publications of a general nature to the inhabitants of the provinces, and his Lordship in Council considers it extremely desirable that the magistrates should refrain from such measures without the sanction of Government, when such sanction can be obtained without material public inconvenience, or at least, without the knowledge and concurrence of the nearest local authority to which they are subject, *viz.* the courts of circuit, or the political agents of the Governor General, in cases suited to such a reference. The Governor General in Council is sensible that emergencies may arise which may render even the delay of a reference to the court of circuit inconvenient and objectionable, but in all practicable cases he desires that such reference may be made, and that when the time will admit of it, the case may be invariably submitted for the decision of Government itself.

6. A copy of this letter will be transmitted to the Nizamut Adawlut, in order that the sentiments expressed in it may be communicated generally to the courts of circuit and to the magistrates.

TO THE COURTS OF CIRCUIT.

July 9, 1812.

No. 115.

Law officers of courts of circuit to be instructed to specify in their futwas convicting persons of receiving stolen property, that such persons knew the property to be stolen.

The same specification to be inserted in

IN several cases, included in the abstract statements of prisoners punished by the judges of circuit, at the half-yearly, quarterly, and monthly, jail deliveries, without reference to the Nizamut Adawlut, the Court have been under the necessity of calling for the futwa of the law officer, and information from the judge of circuit presiding at the trial, respecting prisoners stated to have been convicted of receiving and purchasing stolen or plundered property, with a view to ascertain, whether the sentences passed in such cases, have been founded on a conviction of the prisoners having received or purchased such property, "knowing the same to have been stolen or procured by robbery," so as to render the prisoners punishable for the offences in question under the provisions of Regulation I. 1811.

the abstract statements of the judges of circuit.

2. The explanations received, as well as the futwas of the law officers of the court of circuit, in answer to such references, having in several instances not been sufficiently satisfactory and conclusive on a point so essential to a due conviction of the prisoner, the Court judge it necessary to desire that you will be particularly careful in future to require your law officers to state specifically in their futwas declaring any persons to be convicted of receiving or purchasing stolen or plundered property, that such persons are convicted of having received or purchased such property "knowing the same to have been stolen or procured by robbery."

3. You are further desired to insert the same specification in your abstract statements, respecting all persons convicted of the offences stated, and sentenced to punishment under the provisions of Regulation I. 1811.

NOTE.—See Nos. 124 and 215, Vol. I.

TO THE SEVERAL MAGISTRATES.

No. 122. *March* 11, 1813.

Discretion left with magistrates in all cases where no specific orders have been issued by the Nizamut Adawlut, or court of circuit respecting the use of fetters in the confinement of convicts.

THE Court of Nizamut Adawlut having reason to believe that several of the magistrates consider themselves required to confine all convicted prisoners indiscriminately in fetters, without reference to the nature of the offence of which the prisoner may have been convicted, or to his former condition in life, direct me to acquaint you, that in all cases wherein no specific orders may have been issued, either by the Nizamut Adawlut or court of circuit, for the confinement of a prisoner with or without irons, you are at liberty to exercise your own discretion, and to direct the prisoner to be confined in fetters or not, according as the same shall appear to you proper or necessary for his safe custody, from the nature and circumstances of the case, considered with the prisoner's rank and former condition in life.

NOTE.—See paras. 7 and 8, No. 217, Vol. I.

TO THE COURTS OF CIRCUIT.

No. 124. *August* 12, 1813.

Distinction to be observed in the cases of persons convicted of having stolen property in their possession, between

SEVERAL cases in the abstract statements of the sentences passed by the judges of the courts of circuit, without reference to the Nizamut Adawlut, leading the Court to apprehend that the provisions contained in Sections VII. and VIII., Regulation I. 1811, may in some instances have been applied to persons convicted of having in their possession property obtained by theft or robbery, afterwards knowing the same to

have been so obtained, although ignorant of it at the time when the property came into their possession; I am directed by the Court to acquaint you, for your information and guidance, that the said provisions are only applicable to cases wherein it shall appear that the person convicted knew that the property was obtained by theft or robbery, at the time of receiving or purchasing the same. You are accordingly desired to observe the distinction above noticed between the two offences in question, and to specify the same in your future abstract statements.

those who, at the time of receiving such property, knew that it had been obtained by theft or robbery, and those who are convicted of having such property in their possession, knowing the same to have been stolen at a time subsequent to their receiving or purchasing it.

3. The Court direct me to add that a prisoner convicted of the offence of having possession of property obtained by theft or robbery, knowing the same to have been so obtained, at a period of time subsequently to the property coming into his possession, is of course punishable by the Mahomedan law and the existing Regulations.

NOTE.—See No. 115.

TO THE COURTS OF CIRCUIT.

October 22, 1813. No. 125.

Judges of circuit not to hold more than one trial at the same time.

THE serious attention of the Nizamut Adawlut has recently been drawn to the highly objectionable practice resorted to by a judge of circuit, of holding more than one trial at the same time.

2. The Court are fully persuaded that this practice, so wholly unauthorized by the Regulations, has not frequently occurred; but as more than one instance has come to the knowledge of the Court, they deem it incumbent on them expressly to prohibit the practice in future.

TO THE SEVERAL MAGISTRATES.

June 23, 1814. No. 133.

Rules respecting the mode of procuring the attendance of prosecutors and witnesses.

I AM directed by the Nizamut Adawlut to transmit to you the enclosed extract of a letter from the superintendent of police for the lower provinces, received with a letter from the Chief Secretary to Government, dated the 13th ultimo.

2. The practice noticed by the superintendent of seizing and placing under restraint the persons of witnesses for the purpose of securing their due attendance, being wholly unauthorized, the Court desire that you will take the necessary steps for preventing it in future; enjoining the several police officers under your authority, to a strict observance of the rule prescribed in Section XV., Regulation IX. 1807, which requires them merely to take *mochulkas* from

prosecutors and witnesses, binding them to appear before the magistrate on a specific day, under penalty of paying such fine to Government as the magistrate shall judge proper to impose on their non-attendance.

3. In cases wherein the Regulations do not specifically direct a *mochulka* to be taken from a witness summoned to appear before the magistrate, the Court are not aware of any objection to the requisition of a written acknowledgment from the party, of the receipt of the summons served upon him, and they desire that you will adopt it in future.

Extract of a Letter from the Superintendent of Police in the Lower Provinces, dated the 30th March, 1814.

PARA. 85. The mode of process at present in use in most of the districts in these provinces, for causing the attendance of witnesses in the criminal courts, is not only illegal, but a serious hardship to persons summoned, and is one of the chief causes of the great unwillingness manifested by all ranks to attend our courts for the purpose of giving evidence; I allude to the practice of seizing witnesses, and securing their persons at the thannas, and forwarding them into the court under charge of peons and burkundazes.

86. I have had experience that this mode of procedure is not necessary, and I am satisfied that it might be generally discontinued without impeding the business of the courts.

87. The present judge and magistrate of the 24-Pergunnahs, during the time he was in charge of the district of Nuddea, caused the provisions of Section XV., Regulation IX. 1807, to be duly promulgated and enforced, and instructed the police officers, on the occasion of serving a summons, to take a recognizance from the person subpœnaed, and to deliver into his hands a chullan or despatch addressed to the magistrate, with which the witness was required to proceed to the sudder station unaccompanied by any peon or burkundaz.

88. During two years, in which time many thousand witnesses attended the court, I cannot call to my recollection an instance of any proceeding having been obstructed by this practice, either before the court of circuit or the magistrate.

89. It is natural that the witness should consider himself responsible for the safe delivery of a paper addressed to the magistrate and confided to his charge by a police officer, and a few examples made, by enforcing the obligation of the recognizance against witnesses neglecting to appear under such circumstances, would effectually ensure a ready attendance.

TO THE SEVERAL MAGISTRATES.

June 30, 1814.

No. 134.

Form of report to be furnished daily by the native doctor to the magistrate.

I AM directed by the Nizamut Adawlut to transmit to you the accompanying copy of a letter from the superintendent of police for the lower provinces, dated the 26th instant, with copies of the forms therein mentioned.

2. The forms in question having been found useful, the Court desire that you will adopt them in substance, with any modifications that may be suggested by experience.

To the Register of the Nizamut Adawlut.

Chinsurah, June 26, 1814.

I have the honour to acknowledge the receipt of a circular letter from you, dated the 26th ultimo, prescribing rules for bringing at regular periods the sickness prevalent in different jails and hospitals, under the consideration of the Medical Board.

2. The above subject has brought to my recollection two forms introduced by the magistrate of Rajshahye, which I consider well calculated for aiding the object proposed by the Circular Orders of the Court of Nizamut Adawlut, and likewise for bringing daily under the observation of the magistrates, the actual state of their jails.

3. It is customary in most districts, for the jailor, the native doctor, and the officer commanding the jail guard, to attend the magistrate in the morning, and to furnish a verbal report regarding their respective departments.

4. The accompanying forms, which are in English, may be filled up daily by an English writer without delay or trouble, from a similar statement to be kept in the native languages by the jailor and native doctor, who should be required to present the English report to the magistrate every morning on the opening of the court.

5. These statements are adapted to afford a distinct view of the jail and hospital, to check abuses, and at the same time to form a useful record of office; I venture therefore to submit them to the superior court, with a recommendation, that they may be prescribed for general observance.

Report of Prisoners in the jail of Zillah ——, for the month of ——.

Nizamut Adawlut.					Court of Circuit.				Magistrate.							
Date.	Perpetual imprisonment.	Ditto temporary.	Security required.	Referred.	Temporary imprisonment.	Security required.	Mad.	Postponed.	Temporary imprisonment.	Security required.	Mad.	Committed.	To be tried.	Dewanny Prisoners.	Total.	

Daily Hospital Report for the Month of ——.

Date.	Patients brought in.	Total.	Died.	Discharged.	Remaining.

TO THE COURTS OF CIRCUIT.

No. 136. *July* 20, 1814.

Periodical reports furnished by Magistrates to the Nizamut Adawlut, to be transmitted through the courts of circuit.

It having been suggested to the Nizamut Adawlut by one of the judges of the Calcutta court of circuit that the whole of the monthly and other periodical reports transmitted by the magistrates to the Nizamut Adawlut, shall be sent through the channel of the courts of circuit, with the view of enabling the latter to add any observations which they may consider necessary, and the Court of Nizamut Adawlut not being aware of any objection to the adoption of this measure,

provided the reports are forwarded to them without delay, I am directed to desire that you will issue the requisite instructions to the several magistrates in your division, for transmitting the reports in question at the prescribed periods to your court, and that you will be careful to forward the same to the Nizamut Adawlut as soon as possible after the receipt of them, with any remarks which you may judge necessary.

TO THE COURTS OF CIRCUIT.

August 3, 1814. No. 137.

Magistrates and judges of circuit how to proceed in cases of persons exhibiting symptoms of insanity.

Mode of procedure in the case of a prisoner being both deaf and dumb.

INSTANCES having occurred of persons committed for trial before the court of circuit, either standing mute, or exhibiting symptoms of mental derangement, on their trial before the court of circuit, I am directed by the Court of Nizamut Adawlut to desire that you will instruct the several magistrates within your division, in any instances which may be brought before them in which a prisoner committed for trial before the court of circuit may, previously to his trial, show any symptom of being deranged in mind, to cause the prisoner to be occasionally examined by the surgeon of the station, with directions to make such inquiries respecting the prisoner as may be necessary to enable him to form an opinion on the state of the prisoner's mind; and in case of the prisoner's being mute, whether he is mute from obstinacy, or from any real impediment of speech, or affection of mind.

2. The Court further desire that in all such cases the judge of circuit by whom the prisoner may be tried, will take the deposition of the surgeon of the station on oath, on the points abovementioned; at the same time requiring him to state the grounds of the opinion delivered by him, and recording the deposition, with a Persian translation of it, upon the proceedings held on the trial.

3. You will also instruct the several magistrates within your division, in cases of the above nature, in which a prisoner may be brought to trial before the court of circuit, to have in attendance on the court of circuit, a sufficient number of any other witnesses besides the surgeon, who may be able to depose to the prisoner's previous state of mind, or, with respect to dumbness, its previous existence, or otherwise, in order that their evidence may be taken by the judge of circuit.

I am further directed to transmit to you, for your information and guidance, the enclosed copy of the Court's orders, dated the 22nd July 1813, in answer to a reference from the third judge of the Dacca court of circuit, respecting a prisoner stated to be both deaf and dumb. In instances, however, in which a prisoner may appear to be dumb but not deaf, and apparently in a sane state of mind, (a case of which

nature has been recently before the Court,) the judge of circuit before whom the trial may be held, will be generally able, from the signs and tokens of the prisoner, in answer to questions put to him, to complete the trial in a regular and satisfactory manner.

To the Dacca Court of Circuit, July 22, 1813.

I am directed by the Nizamut Adawlut to acknowledge the receipt of a letter from your third judge, dated the 10th instant, respecting the trial of a prisoner who is stated to be both deaf and dumb.

2. Presuming the fact of the prisoner's entire disability to hear or speak to have been well established, the Court are of opinion that inquiry should be made among the relations and friends of the prisoner with a view to ascertain whether any of them have been in the habit of communicating with him by means of signs and tokens; and should it appear that any person is able so to interpret between him and the court, it will be proper to employ such person as an interpreter, previously swearing him to interpret truly between the prisoner and the court.

3. But at all events the Court are of opinion that the prisoner should be brought to trial for the offence with which he stands charged, and, if it should be found impracticable by any means to convey intelligence to him, it will be incumbent on the judge, before whom the trial is held, to inquire for, and take, all evidence which the circumstances of the case may indicate for the prisoner's defence, and carefully ascertain and record every point which may make in his favor.

4. You are requested to communicate a copy of this letter to your third judge, for his information and guidance.

TO THE SEVERAL MAGISTRATES.

No. 138. *August* 9, 1814.

Magistrates to give the assistance of the writers on their establishments to the surgeons, to enable them to prepare their periodical reports on the health of the prisoners.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information and guidance, the accompanying copy of a letter, addressed by order of the Court to the chief secretary to Government, on the 27th ultimo, and copy of a letter from the chief secretary in reply, dated the 2nd instant.

To the Chief Secretary to Government, July 27, 1814.

I am directed by the Court of Nizamut Adawlut to request you will lay before the Honorable the Vice-President in Council, the accompanying copy of a letter from the senior judge of the court of

circuit for the division of Dacca, dated the 14th instant, with copies of its enclosures.

2. The reports which the zillah and city surgeons are required to make on the state of the hospitals and jails, do not appear to the Court to require the exclusive occupation of a native officer to assist them in the performance of that duty ; and the Court conceive that in general the establishments of the judges and magistrates would be found sufficient to admit of one of their mohurrirs or writers performing any duties of the nature mentioned in Mr. Todd's letter.

3. The Court therefore beg to suggest, instead of allowing a writer or mohurrir for the surgeon of each station, the expediency of orders being issued to the several magistrates, directing them to give the assistance of the writers and mohurrirs on their establishment, as far as may be necessary, to enable the surgeons to prepare the periodical reports required of them, applying in the usual course, if any addition to their fixed establishment should at any time be requisite on this account.

To the Register of the Nizamut Adawlut, August 2, 1814.

I am directed to acknowledge the receipt of a letter from you, dated the 27th ultimo, with its enclosures, and to desire, that you will acquaint the Court that, on the ground stated in the 2nd paragragh of your letter, the Honorable the Vice-President in Council desires that they will issue the necessary orders to the several magistrates, directing them to give the assistance of the writers and mohurrirs on their establishment to the surgeons, to enable them to prepare the periodical reports required of them, on the state of the hospitals and jails.

TO THE COURTS OF CIRCUIT.

August 13, 1814.

No. 139.

Magistrates and courts of circuit to insert in all examinations and other proceedings held before them, the date and month of the local era, as well as of the Christian era

Darogahs to be instructed to specify in the

INSTANCES frequently occurring, in which examinations of prisoners, and other proceedings held before the magistrates, and by police darogahs, only specify the date and month of the Christian era, I am directed by the Court of Nizamut Adawlut to desire that you will instruct the several magistrates within your division, to observe it as an invariable rule, to specify, in all examinations taken, and proceedings held by them, the date and month of the era current in their respective jurisdictions, as well as of the Christian era, on which the examinations are taken and proceedings held. You will at the same time desire them to instruct the police darogahs under their authority respectively, to make it an invariable rule to specify the date and month

proceedings the date and month of the era current within their respective jurisdictions.

of the era current in their several jurisdictions, on which all examinations are taken, and proceedings held by them.

I am further directed to desire that you will consider the foregoing instructions to the magistrates as applicable to your own proceedings.

TO THE COURTS OF CIRCUIT.

No. 141.

October 5, 1814.

Construction of Regulation X. 1811.

I AM directed by the Court of Nizamut Adawlut to transmit to you the enclosed copy of a letter from the superintendent of police for the western provinces, dated the 19th July last, together with copy of a letter addressed by order of the Court to the late acting magistrate of zillah Agra, under date the 23rd April 1812, containing the construction given by them to the provisions of Regulation X. 1811, and to desire that you will communicate the same to the several magistrates in your division, for their information and future guidance.

To the Register of the Nizamut Adawlut, July 19, 1814.

Instances having frequently occurred within the division of the western provinces, of persons having been apprehended by the police darogahs and subjected to punishment for the imputed offence of having sold or purchased a slave or slaves, and it appearing that many of the local magistrates, and, I believe, all the police thannadars, as well as the inhabitants generally of these provinces, consider such sale or purchase to be prohibited by Regulation X. 1811, under any circumstances whatever, I beg leave to submit for the consideration and decision of the Court of the Nizamut Adawlut, whether such construction be just and conformable to the letter or spirit of the Regulation, or whether the enactment alluded to has not exclusively reference to slaves imported from foreign countries.

2. Conceiving that the object of the Regulation in question was exclusively the prevention of the importation of slaves, by sea or by land, from foreign states or countries for the purpose of traffic, and that it was by no means intended by that enactment to supersede the operation of the Mahomedan law, and to prohibit or to interfere with the purchase or sale of any slave or slaves within the limits of the Company's territories, who may not have been so imported, I submit, for the consideration of the Court, the expediency of this point being explained, should the above construction be correct, for the information and future guidance of the magistrates and their police officers, not only in order to obviate the recurrence of instances of the illegal apprehension and punishment of individuals for this supposed offence, but more particularly with a view to the preservation of the lives of the infants and children of the poorer classes of the inhabitants in these provinces, which, in seasons of scarcity similar to the

last, in which their parents may be unable to support them, must fall a sacrifice by famine to a mistaken principle of humanity, when those lives might not only have been preserved, but in all probability the future condition and happiness of the individual bettered and advanced under a state of bondage, differing so widely as that state is well known to do in Asia from all other countries; and I believe the district of Agra furnished a dreadful example, in the last year, of the effects of the prohibition alluded to, in the spectacle it presented of thousands of starving children abandoned by their parents, or expiring in their arms from hunger, whose lives might have been saved had their parents been suffered to dispose of them to the wealthier part of the community.

To the Acting Magistrate of Zillah Agra, April 23, 1812.

I am directed by the Court of Nizamut Adawlut to acknowledge the receipt of a letter from you, dated the 3rd instant, requesting the Court's instructions relative to the operation of the provisions of Regulation X. 1811.

2. The Court, adverting to the title and preamble of the regulation in question, and to the bond required by Section V., understand the provisions in it to be applicable only to the importation of slaves, for the purpose of being sold, given away, or otherwise disposed of.

3. The cases stated in the 1st and 2nd paragraphs of your letter, do not, therefore, appear to be within the provisions of the Regulation, nor (the Court observe) is any part of the Regulation applicable to the sale of slaves not imported into the British territories.

TO THE COURTS OF CIRCUIT.

March 1, 1815.

No. 145.

Modification of the rule which requires all prisoners to be locked up in the wards of the jail during the night.

It having been lately represented to the Nizamut Adawlut that serious inconvenience has, in some instances, been found to result from the strict observance of the rule, that all prisoners confined in the public jails shall be locked up during the night in the several wards, I am directed to communicate to you, and to desire that you will circulate, for the information and guidance of the several magistrates within your division, the following rule, in modification of the rules already in force, for the management of the jails, and guarding the prisoners.

2. Whenever, from the heat of the weather, and the crowded state of the jails, it may appear to the magistrates seriously objectionable to adhere strictly to the rule of locking up all the prisoners in the several wards, they shall use their discretion in permitting to sleep outside the wards in the yard of the jail, such of the prisoners as have

been charged with, or convicted of, or are held to security for, the less serious offences. In using this discretion, the magistrate shall adopt such precautions as may ensure the primary object of the safe custody of the prisoners.

TO THE COURTS OF CIRCUIT.

November 20, 1815.

No. 156.

Advising the zillah and city magistrates against committing persons for trial before the courts of circuit, solely on the ground of the accusation of confessing prisoners.

SEVERAL instances having come under the notice of the Nizamut Adawlut in which magistrates have committed persons for trial before the courts of circuit, solely on the ground of the accusation of confessing prisoners, that such persons were their accomplices or concerned in the offence charged, and a vague uncorroborated accusation of such a nature being insufficient to warrant a sentence of any punishment upon a person so accused, or even to hold him to security, unless accompanied with evidence to general bad character, I am directed by the Court of Nizamut Adawlut to desire that you will acquaint the several magistrates within your division, that the Court are of opinion they ought not to commit for trial before the court of circuit, or hold to security any person on the sole ground abovementioned; at the same time acquainting them that it is not intended by the present orders to restrict them from making any further inquiry, or holding any further proceedings they may consider to be necessary, regarding persons in the above predicament, or from acting according to the result.

TO THE COURTS OF CIRCUIT.

December 7, 1815.

No. 157.

Instructing the magistrates to hold inquiry in all cases of prisoners committing suicide, and to report the result to the courts of circuit.

AN instance having recently occurred of a prisoner committing suicide without any inquest being held on the body, or other inquiry made, with the view of ascertaining the cause which may have urged the prisoner to the commission of the act, and the Court of Nizamut Adawlut being of opinion that inquiry should invariably be made in all cases of this nature, I am directed to desire that you will instruct the several magistrates in your division accordingly.

2. You will at the same time inform them that the result of the inquiries made in such cases is to be regularly reported to your court, who, in any instances which may appear to require it, will communicate the same for the information of the Nizamut Adawlut.

TO THE ZILLAH AND CITY MAGISTRATES.

February 24, 1816.

No. 159.

The practice of some magistrates of sentencing vagrants and offenders to banishment from a city or zillah, or from the British territories, declared illegal, and prohibited.

IT having been represented to the Court of Nizamut Adawlut that some of the magistrates are in the practice of sentencing vagrants, and persons convicted of specific offences, to banishment from the city or district in which they were apprehended, and even to expulsion from the British territories, I am directed to advise you that such sentences are wholly unwarranted by the Regulations in force, and to caution you against passing any future sentence or order of this nature.

2. I am, at the same time, directed to inform you that the Court do not mean to prohibit what they also understand to be an occasional practice, *viz.*, the discharge from custody of a vagrant, or other person, not being a fixed inhabitant of a particular city or district, who may have been apprehended under any circumstances of suspicion, and may not be able to find security for his good behaviour, on his voluntary offer or consent to quit the jurisdiction in which he was taken into custody.

3. The Court observe, however, that this measure should, for obvious reasons, be adopted with circumspection, lest persons of bad character, released without security in one city or zillah, be left at liberty to commit acts of criminality in another jurisdiction.

TO THE COURTS OF CIRCUIT.

February 24, 1816.

No. 160.

Transmitting an extract of a letter from the Court of Directors, recommending the passing of sentences in the most public manner, and suggesting means for explaining recent penal enactments.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information and guidance, the enclosed extract of a letter (Para. 69) from the Court of Directors, dated the 19th May, 1815, received with a letter from the Secretary to the Government in the judicial department, dated 29th December last.

Extract of a letter from the Honorable the Court of Directors, dated 19th May, 1815, in the Judicial Department.

69. It is stated by Mr. Rees that he invariably makes it a rule to pass sentence upon the prisoners in the most public manner, and to explain to them the enormity of their crimes, and that he had hopes, from the attention paid by the by-standers, that it had a good effect. It is a practice which cannot be too generally observed; and we strongly recommend that the judges do, in passing sentence on criminals, take the opportunities thus presented to them in crowded courts, of explaining the provisions of such penal enactments as may have been recently passed by the Government, and are but imperfectly known or understood by the community.

TO THE COURTS OF CIRCUIT AND SUPERINTENDENTS OF POLICE.

February 24, 1816.

No. 161.

Transmitting a copy of a circular letter addressed to the several magistrates by order of the Nizamut Adawlut, and of its enclosure, regarding the security of convicts while proceeding by water from one place or station to another.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information, the accompanying copy of a circular letter written by order of the Court to the several magistrates on this date.

Copy of a letter written by order of the Nizamut Adawlut to the several magistrates, on the 24th February, 1816.

I am directed by the Court of Nizamut Adawlut to transmit to you the enclosed extracts (Paras. 2 and 7) of a letter from the magistrate of Nuddea, received with a letter from the register to the Calcutta court of circuit, dated the 20th instant.

2. Instead of the proposition contained in the 7th paragraph of the magistrate's letter, the Calcutta court of circuit have suggested the propriety, either of confining convicts of dangerous character, on their passage by water from one station to another, entirely to the boat, or, if it be necessary that they should be occasionally removed on shore, that they may be permitted to land in small numbers only at a time.

3. The general use of hand-cuffs and neck-chains, would, the Court think, be objectionable, as endangering the lives of the convicts in case of accident to the boat by fire or otherwise: but in special instances they may be indispensable; and the Court do not, therefore, think fit to prohibit the practice, concluding that it is not resorted to, except in cases of emergency.

4. Nor does it appear expedient to prescribe any general rules in regard to the custody of convicts on their removal from one district to another, as the precaution for security in each instance should be adapted to the number and character of the prisoners.

5. But as frequent instances have lately occurred of attempts made by prisoners to overpower their guard, the Court have thought it proper to call your attention to the subject, that you may, by particular instructions to the guard, or otherwise, take such measures of precaution as may appear necessary for preventing similar attempts, without subjecting the prisoners to more restraint than may be requisite for their safe custody.

Extract of a Letter from the magistrate of Nuddea to the Register of the Calcutta Court of Circuit.

2. A party of the 30th regiment of native infantry consisting of one havildar, one naick, and twelve sepoys, were escorting in a boat 14 convicts, (under transportation for life, forwarded from the magistrate of Benares to the Twenty-four Pergunnahs,) and on the 14th

instant, were passing down the Matahbanga river, in this district. In the evening they brought to, and the convicts were allowed, as usual, to go on shore for a few minutes, when, it seems, in returning to the boat, several of them rushed forward, and seized a spear, and musket, and a sword, with which they immediately attacked the sepoys, and a scuffle ensued, in which the havildar received a slight cut from the sword, and one of the convicts was wounded in the thigh by a musket shot from one of the sepoys, seven of whom fired on the prisoners. Seeing no prospect of success, all of the convicts, with the exception of three men, who remained in the boat, threw themselves into the river and attempted to escape; the sepoys then surrounded the spot on both sides of the river, and apprehended the prisoners as they came to the shore. Six of them were secured in this manner; but there is reason to apprehend that the remaining five convicts were drowned.

7. In conclusion, I beg leave to submit my opinion that all convicts of desperate and dangerous character, sent in boats, ought to be neck-chained, or hand-cuffed.

TO THE COURTS OF CIRCUIT.

June 12, 1816. No. 165.

Communicating the establishment of insane hospitals at the principal station of each provincial division, and directing the removal of insane persons thither, with certain exceptions.

By a Circular Order of the Nizamut Adawlut under date the 6th* January, 1801, the several magistrates were directed to instruct their police officers to secure, and send to the sudder station of each district, all insane persons from whose insanity they might have reason to apprehend any fatal effects, unless their friends should enter into engagements to take such care of them as to prevent the possibility of their doing any mischief.

2. The same order contained instructions for the confinement of the insane persons referred to, with proper attendance, in a separate ward of the jail.

3. Insane hospitals having been established, since the date of this order, at the principal station of each provincial division, for the reception and care of insane natives sent from the different districts, the Court are of opinion that such persons should in general be removed to the hospital of the local division as soon as circumstances may admit.

4. The Court desire that you will instruct the several magistrates in your division accordingly; leaving it, however, to the discretion of the magistrates to detain under their charge any individuals confined on account of insanity, whose removal to the division hospital may appear to them objectionable.

5. Much unnecessary correspondence has been occasioned by the non-observance of this rule, and serious consequences have, in some

* Omitted. For reasons, see Appendix.

instances, been experienced from a want of proper attention on the part of the magistrates to the crowded state of their jails.

6. You are desired to attend to this point in examining the future half-yearly reports of your division, and to require an immediate explanation from any of the magistrates who may not conform to the present orders; requiring them at the same time to supply the omission.

NOTE.—See No. 307, Vol. I.

TO THE COURTS OF CIRCUIT.

No. 177. *November* 13, 1816.

A person once tried upon any charge, and acquitted, not to be committed, or held to bail, for a second trial on the same charge.

AN instance having occurred of a magistrate's committing a person for trial before a court of circuit upon a charge for which he had previously been tried and acquitted by that court, and the Court of Nizamut Adawlut being of opinion that this practice, although sanctioned by the Mahomedan law, is inconsistent with established principles of justice, they desire, with the view of preventing any similar occurrence in future, that you will instruct the several magistrates in your division, not to commit or hold to bail for a second trial before the court of circuit, any person already tried and acquitted on the same charge by a competent tribunal, whether the court of circuit or Nizamut Adawlut.

2. This order, however, is not intended to preclude the magistrates from committing for trial before the court of circuit, in cases cognizable by that court, persons who may have been before apprehended and discharged by a magistrate from want of evidence, if further evidence in support of the charge, should appear to warrant the measure.

3. The Court will include a provision to the above effect in some future Regulation, and will, at the same time, propose an extension of it to the courts of circuit, (who are now required to regulate their proceedings by the opinions of their law officers on all points of law,) so as to restrict them from proceeding on the trial of persons already tried and acquitted by a competent tribunal, if a second commitment in any such case should be hereafter made by a magistrate.

TO THE COURTS OF CIRCUIT.

November 13, 1816.

No. 178.

Police darogahs violating the provisions of Regulation XIV., 1810, Section V., Clause 3, by holding out encouragement to persons apprehended on criminal charges to confess the same, noticed to the courts of circuit towards a prevention of the same for the future.

REPEATED instances having been brought to the notice of the Nizamut Adawlut of police darogahs acting in violation of the positive prohibition contained in the third clause of Section V., Regulation XIV., 1810, by holding out encouragement to persons apprehended on criminal charges to confess the same in expectation of obtaining a pardon or remission of punishment, the Court desire that you will instruct the magistrates in your division to issue perwannahs to the several police officers, within their respective jurisdictions, reminding them of the rule above cited, and enjoining their strict attention thereto, with an intimation that the Nizamut Adawlut, in any future instance which may come before them of a police darogah acting in opposition to the rule, will order the person so offending to be immediately dismissed from office.

2. The Court at the same time trust that your court, as well as the several magistrates, will exercise a vigilant control over the conduct of police officers as opportunities may offer, with the view of effectually checking an unwarrantable assumption of authority liable to the most serious objections.

NOTE.—See Section XIX., Regulation XX., 1817.

TO THE COURTS OF CIRCUIT.

November 20, 1816.

No. 180.

Instructions of the Nizamut Adawlut, to the courts of circuit, regarding the mode and place of executing criminals sentenced to death.

BY the Circular Orders of the Nizamut Adawlut, under date the 5th March, 1810, a discretion was vested in the magistrates to execute criminals under sentence of death, at such place within their respective jurisdictions as might appear to them most expedient, causing the body to be afterwards exposed upon a gibbet, as near to the spot where the crime had been committed as circumstances should admit.

2. It was at the same time directed, that the necessary alteration should be made in the warrants issued by the courts of circuit. But on inspection of several returned warrants transmitted to the Nizamut Adawlut, after execution of the sentence, due attention does not appear to have been paid to this part of the order cited.

3. The Court have, therefore, caused the requisite alterations to be made in the printed form of warrant for sentences of death; and I am directed to send you the accompanying fifty copies, with instructions to return whatever number of copies of the old form you may at present have in store.

4. It being impossible to render the form of warrant applicable to every case, of male and female convicts; the Court rely on your particular attention to make such alterations as may be necessary, according to the terms of the sentence, in each instance, to which the warrant should of course conform as exactly as possible.

*

TO THE COURTS OF CIRCUIT.*

No. 183. *April* 30, 1817.

Transmitting to the courts of circuit, additional rules for the management of jails, and treatment of prisoners employed on the public roads, (passed agreeably to Regulation XIV., 1816, Sections II. and III.,) including a prohibition against the use of stocks.

I AM directed by the Court of Nizamut Adawlut to transmit, for your information, the enclosed copy of some additional rules for the management of jails and treatment of prisoners, which have been circulated to the several magistrates on this date, in conformity with Sections II. and III., Regulation XIV., 1816.

Additional rules for the management of public jails, and treatment of prisoners employed on the public roads, proposed by the Court of Nizamut Adawlut to be circulated, with the sanction of Government, for the guidance of the zillah and city magistrates, in pursuance of Sections II. and III., Regulation XIV., 1816, *and approved by the Governor General in Council, on the* 18*th April*, 1817.

First.—The construction of substantial public jails in each zillah and city jurisdiction, having rendered it unnecessary for the safe custody of prisoners in such jails, that they should be confined in stocks, except in special cases of exigency, the ordinary use of stocks in the public jails is hereby strictly prohibited. If at any time a magistrate, under special circumstances, shall consider the temporary use of stocks to be indispensably requisite for the custody of any of the prisoners under his charge, he is authorised to direct the same, but shall immediately transmit a full report of the case for the information and orders of the court of circuit of the division.

Second.—In addition to the seventh clause of Section III. of the rules passed by the Governor General in Council, on the 8th† February, 1811, and circulated to the several magistrates by the Court of Nizamut Adawlut, on the 14th March, 1811, it is hereby directed, with a view to guard against the possibility of fire, when convicts are employed on the roads and confined at night in a hut or tent, that no more than ten, or at the utmost twenty, convicts shall be secured with the same chain passing through the ring of their fetters. The chain to be made light, and put through the fetters whilst the prisoners are standing, in such manner as not to prevent their moving together with facility on an alarm of fire. The hut or tent in which the prisoners are confined at night, should also have a convenient number of doors for their speedy removal in the event of fire; and every precaution should be taken to prevent so serious an accident, especially by using lantherns to enclose any lamps that may be kept burning, or occasionally lighted during the night.

Third.—It appearing to be expedient for the health and cleanliness of convicts subject to hard labour, as well as for the convenience of the guards who have charge of them, that when circumstances may admit of it, they should be exempted from labour during one day in each week, the magistrates are required to observe as a general rule what is now the established practice in many districts, that, except on urgent occasions, when the labour of the convicts engaged in execution of any particular work cannot be dispensed with, they shall

* Transmitted to the magistrates also.

† Omitted. For reasons, see Appendix.

not be employed on Sundays, and at all events a part of every Sunday shall invariably be allowed to them, and to their guards, for purposes of cleanliness. The magistrates shall, at the same time, be careful that this indulgence is not abused by any misbehaviour, and shall adopt such measures as may appear best calculated to secure the due attainment of the object intended by it.

Fourth.—It shall also be at the discretion of the magistrates to authorise an intermission of labour at the principal Mussulman and Hindu festivals, as far as may appear indispensably necessary to enable the convicts of either persuasion to perform their religious ceremonies respectively; but not to any further extent than may be requisite for this purpose.

TO THE COURTS OF CIRCUIT.

July 9, 1817. No.. 185.

Copies of futwas of the law officers of the courts of circuit and of the Nizamut Adawlut, in criminal trials, to be furnished to such magistrates as may be concerned in them, to enable them to perform certain duties.

It has occurred to the Nizamut Adawlut that it will be useful to furnish the zillah and city magistrates with copies of the futwas of your law officers in all cases of sentences passed by the court of circuit, without reference to the Nizamut Adawlut, and with copies of the futwas of the law officers of the Nizamut Adawlut when the final sentence may be passed by this Court, as well to enable the magistrates to explain to each prisoner the grounds of the sentence passed upon him, as to assist them in the discharge of prisoners, in giving the certificate or roobukary prescribed in the Circular Order of 21st August, 1812.*

2. You are accordingly desired, in all instances of sentences hereafter passed by your Court without reference to the Nizamut Adawlut, to transmit with your warrant to the magistrate, a copy of the futwas delivered in the case by your law officer, and in like manner to forward to the proper magistrate, copies of the futwas of the law officers of the Nizamut Adawlut, (which are always sent to you with the sentences of the Court, in pursuance of their resolution under date the 5th September, 1811†,) whenever you may issue your warrants for the execution of sentences passed by the Nizamut Adawlut.

3. You are further desired to transmit a copy of this letter to the several magistrates within your division, for their information.

TO THE COURTS OF CIRCUIT.‡

July 31, 1817. No. 187.

Communicating to the courts of circuit the observations of the Nizamut Adawlut, on the competency of those courts to admit

The Court of Nizamut Adawlut having had under their consideration a question referred to them on the competency of a court of circuit to admit a razeenamah, or compromise, in a criminal prosecution after commitment for trial by the magistrate, I am directed to communicate the following observations on the subject, for your information and guidance.

2. The only provision in the Regulations now in force which authorises the admission of a private compromise on criminal prosecutions, is that contained in

* Omitted. For reasons, see Appendix.

† See No. 101, Vol. I. ‡ Calcutta excepted.

a razeenamah between the parties in a criminal case, after commitment for trial by a magistrate.

the latter part of Section VIII., Regulation IX., 1807, which directs that "excepting the trivial cases noticed in the section, no razeenamah shall be received without the special sanction of the magistrate; nor shall any private compromise be admitted by the magistrate, in crimes of a heinous nature, such as on conviction may require exemplary punishment for the ends of public justice."

3. The Court of Nizamut Adawlut are of opinion that the principle of the prohibition contained in the above clause, is applicable to, and obligatory upon, the whole of the criminal courts.

4. It follows that no court of circuit would be justified in admitting a compromise in crimes of a serious nature, such as require exemplary punishment for the ends of justice; especially crimes of this description which have been recognized as such in the Regulations, and when it may have been expressly directed that the offenders shall be brought to trial before the criminal courts.

5. The Court are further of opinion that a formal razeenamah, or compromise, ought not to be admitted by a judge of circuit to bar the trial of any commitment made by a magistrate, both as there is no provision for such in the existing Regulations, and as the established practice of discharging the prisoner on a futwa of acquittal, when evidence may not be adduced for his conviction, and the ends of public justice may not require a postponement of the trial for further evidence, appears preferable to the admission of a compromise, which might perhaps leave the prisoner exposed to a future prosecution.

TO THE ZILLAH AND CITY MAGISTRATES.

October 21, 1817.

No. 191.

Transmitting to the several magistrates the instructions of the Nizamut Adawlut, to guard against the frequent loss of lives by persons falling into uncovered wells.

THE frequent loss of lives by persons falling into uncovered wells, especially in the province of Behar, and some parts of the western provinces, having been brought to the notice of Government, I am directed by the Nizamut Adawlut, in pursuance of a desire expressed by the Honorable the Vice-President in Council, to communicate to you the following instructions, with a view to guard against such fatal accidents, as far as circumstances admit.

2. It is apprehended that casualties of this nature are, for the most part, beyond the reach of any legislative remedy which could be applied with propriety, and that any direct interference of the police officers would be not only ineffectual, but also occasion dissatisfaction.

3. But it is supposed that the influence and authority of the local magistrates might frequently be exerted with advantage, in inducing the proprietors of wells to adopt such measures as are calculated to prevent the occurrence of such accidents, or the recurrence of them when a loss of life may have actually taken place, in any instance, from the want of a parapet-wall round the well, or other proper and usual precaution.

4. You are accordingly desired to take every suitable occasion of advising and enjoining the proprietors of wells within your jurisdiction, to render them as secure as possible against accidents to travellers, or

to persons who may be in the habit of using them; and whenever an instance may occur of accidental death, from the want of any due precaution on the part of the proprietor of a well, you will admonish and require him to adopt such measures as may appear proper and necessary to prevent any recurrence of a similar accident.

5. In the event of there being any public wells without proprietors, you will direct the local police officers to ascertain the state of them from time to time, and report to you whenever they may be insecure from the want of a parapet-wall, or otherwise, with a statement of the expense required to make them secure. If the expense so stated be inconsiderable, and appear, on inquiry, to be necessary for the purpose of securing a public well, you are authorised to defray it, and to charge the amount in your monthly contingent bill, with the usual explanation. But if the stated expense be, in any instance, more than fifty rupees, you will transmit the police officer's report, with your sentiments upon it, to the superintendent of police, in conformity with the rule prescribed for similar cases by Section XVII., Regulation XVII. 1816.

TO THE ZILLAH AND CITY MAGISTRATES.*

February 4, 1818.

No. 195.

Transmitting draft of a proclamation, with translations thereof in the native languages, relative to the murder of children for the purpose of obtaining their gold or silver ornaments, to be read, or published at all the public cutcherries; and pointing out the duty of the magistrates on every such case officially coming before them.

I AM directed by the Court of Nizamut Adawlut to transmit to you the accompanying English copy of a proclamation, with translations of it in the Persian and Bengallee† languages, and to desire you will cause the latter to be read and published at all the public cutcherries within your jurisdiction, including those of the collector and moonsiffs, as well as at the several police thannas.

2. You are further desired to take every proper occasion, especially when the case of a child's being murdered to obtain its jewels or ornaments may come officially before you, to impress upon the minds of parents and other persons who may be present in court, the danger to which children are exposed by the practice of allowing them to go abroad with jewels and ornaments, unless attended by persons able to protect them, and the consequent imprudence and impropriety of their

* Copies of this letter, and of the proclamation with translations of it in the native languages, were forwarded to the several courts of circuit with this paragraph. "Para. 2. The Court desire, that you will cause the proclamation in the country languages to be read and published at your cutcherries, and that you will consider the instructions contained in the second paragraph of my letter to the magistrates, equally applicable to the judges of your courts, whenever a proper occasion may occur, on a criminal trial or otherwise, for promoting the object intended."

† In Hindoostanee, in the Western or Ceded and Conquered Provinces.

perseverance in a practice so often attended with effects as lamentable to themselves as fatal to the lives of their children.

Draft of a Proclamation to be published in the Persian, Bengallee, and Hindoostanee Languages.

It having come to the knowledge of Government through various channels of information, and particularly from the reports of the zillah and city magistrates, the courts of circuit, and superintendents of police, that frequent instances still occur in many parts of the territory subject to this presidency, especially in the western provinces, of the murder of children for the purpose of obtaining their gold and silver ornaments, and the Honorable the Vice-President in Council, being desirous of preventing as far as possible this atrocious and lamentable crime, so distressful to the parents and other relatives of the numerous children thus murdered from year to year, without having recourse to measures of a prohibitory and penal nature, which might interfere with established usages, and occasion loss of property or personal inconvenience, it is hereby notified by the Court of Nizamut Adawlut, with the sanction of Government, to all parents, guardians, and others, having the charge of young children, whether of the Hindu or Musulman religion, that whereas experience has shown the great danger of robbery and murder to which children are exposed by being allowed to go abroad from the house of their parents or other persons, having the care of them, with gold or silver ornaments, especially when not attended by trust-worthy persons capable of protecting them, it is the obvious duty of all parents and others entrusted with the care of children, to guard against such danger by removing the cause of temptation, and by not permitting any child under their charge to go from home with any gold or silver ornament, except in company with themselves or with other persons on whom they can depend, to guard against the possibility of any calamitous consequence which they must be well aware has too often ensued from a neglect of such precaution. The judges of circuit and the zillah and city magistrates have been further instructed to take every proper occasion of impressing upon the minds of parents and other persons who may be present at criminal trials in cases of child murder, the danger to which children are exposed by the imprudent practice of allowing them to go abroad with jewels and ornaments; and it is hoped that the respectable inhabitants of the country, as well from feelings of natural affection, as from a sense of moral duty, will be induced to show a strict and ready attention to such communications, as well as to the admonition contained in this notification, which can have no other object than to preserve the lives of many helpless children, and to prevent the distress of their relations from the loss of them. All parents and others having the care of children, are accordingly hereby expected and enjoined to maintain by their example and influence, a careful observance of the precaution recommended to them in this proclamation, which it may be confidently expected will effectually check the prevalent crime adverted to, and

thereby preclude the necessity of adopting any other remedy. Dated ——— ; and published by order of the Court of Nizamut Adawlut, with the sanction of the Honorable the Vice-President in Council.

M. H. TURNBULL,
Register.

TO THE ZILLAH AND CITY MAGISTRATES.

April 8, 1818.

No. 198.

Doubts relative to the compensation to be made to a police darogah, while officiating for a suspended darogah of an adjoining thanna removed.

IN the resolution of Government, under date the 28th April, 1809, circulated to the several magistrates on the 10th May following,* it was directed, that whenever a police darogah should be suspended from office during the trial of a charge against him, and it be found necessary to appoint an acting darogah, the latter should receive the full salary of the office whilst he is so employed.

2. A question having occurred, whether in the event of a darogah being suspended, and his thanna placed during his suspension under the management of a darogah of an adjoining thanna, the latter under the orders above quoted is to receive the whole of the salary attached to both offices, and if not, what portion of the suspended darogah's salary is to be paid to him as compensation for his additional trouble, I am directed to communicate the following instructions for your guidance.

3. The Circular Order referred to does not appear strictly applicable to a person holding the office of a police darogah, and receiving his salary as such during his temporary appointment to the charge of another contiguous thanna; but if any additional allowance appear proper in consideration of the additional duty, in such a case the Court are of opinion it should in the first instance be paid out of the salary of the suspended darogah, subject to the provision already made for cases of ultimate acquittal.

4. The Court are further of opinon that the magistrate appointing the officiating darogah in such cases should regulate the amount of the allowance to be received by him, according to the extent of the trust, and the additional duty to be performed.

* See No. 51, Vol. I.

TO THE COURTS OF CIRCUIT IN THE LOWER AND WESTERN PROVINCES.

April 20, 1818.

No. 199.

Observations and instructions on the inconvenience experienced by prosecutors and witnesses from the postponement of trials from one sessions to another.

THE Court are not aware of any rule or order which requires that in cases of the non-attendance of prosecutors before the courts of circuit, the trial must be postponed for two successive sessions, and the prisoner not discharged until the prosecutor shall fail to attend at a third session.

2. The Court observe that the provisions of Section XLIX., Regulation IX. 1793, (and of Section XVII., Regulation VII. 1803,) are expressly applicable to witnesses only; and with regard to them a discretion is vested in the judge of circuit to postpone the trial or not, according as the judge and law officer may be of opinion that the evidence of the absent witnesses is necessary or otherwise.

3. With regard to the case of absent prosecutors, for which there is no express rule in the Regulations, the Court are of opinion that a discretion should be exercised by the judge of circuit according to the nature and circumstances of each case; and that if both prosecutor and witnesses be absent from any cause which is not likely to prevent their attendance at a future period, the trial should be postponed, and the prisoner be admitted to bail, or kept in custody, as the judge of circuit, under the discretion vested in him by Clause 2, Section IX., Regulation IX. 1807, may deem it proper to direct.

4. On the other hand, when there may be no prospect of the future attendance of either prosecutor or witnesses in support of the prosecution, the prisoner should be discharged. If, however, the prosecutor only be absent, and his witnesses in attendance before the court of circuit, it has been a frequent practice to instruct the magistrate to appoint some person on the part of Government, to conduct the prosecution; and an adherence to this practice, especially when the charge may be such as to call for exemplary punishment on conviction, appears unexceptionable, and conducive to the ends of public justice, as well as more convenient for the witnesses in attendance, than a postponement of the trial to a future period.

5. The expedient suggested of removing the trial with the prisoner, prosecutor, and witnesses, to the next station of jail delivery on the circuit, might be adopted in particular cases, when the judge of circuit may see urgent and special grounds for authorizing and directing this mode of procedure; but the Court are of opinion that it cannot be adopted as an ordinary measure, applicable to all cases in which prosecutors and witnesses may neglect to attend the courts of circuit at the stated time, without risk of great inconvenience and hardship to parties and witnesses.

6. The sentiments of the Court of Nizamut Adawlut on the above points having received the full concurrence of the Honorable the Vice-President in Council, they are now communicated to your court, for your information and guidance.

TO THE COURTS OF CIRCUIT.

April 20, 1818. No. 201.

Magistrates required to certify to the court of circuit, whenever they detain a prisoner for security for good behaviour, after he has been tried and discharged by the court of circuit

IT having been represented to the Nizamut Adawlut that prisoners tried and acquitted by the courts of circuit, are sometimes detained in custody by the magistrates and joint magistrates, notwithstanding such acquittal, under requisition of security for good behaviour, and it appearing proper that the courts of circuit should be duly informed of the grounds on which prisoners acquitted by them are detained in such cases, the Court of Nizamut Adawlut, with the concurrence of the Honorable the Vice-President in Council, desire you will communicate the following instructions to the several magistrates and joint magistrates within your division.

2. Whenever a magistrate or joint magistrate may see grounds for detaining in confinement a prisoner acquitted and ordered to be discharged by a court of circuit, he is required immediately to certify the same, together with a copy of his proceedings, for the information of the judge of circuit by whom the discharge of the prisoner may have been directed.

TO THE COURTS OF CIRCUIT.

April 28, 1818. No. 203.

Prisoners once apprehended and discharged, but committed afresh for trial before the courts of circuit, the cause and result of the former apprehension to be stated on the proceedings of the second commitment,

IT having been represented to the Court of Nizamut Adawlut that when prisoners formerly apprehended and discharged, may stand committed to take their trial before the courts of circuit, on the charge of another offence, it would be useful to annex a report of the cause of their former apprehension, and of the result, to the magistrate's proceedings in the new trial, the Court desire that you will instruct the several magistrates within your division, whenever they may have occasion to commit for trial a prisoner who has been formerly apprehended, to attach to their proceedings a report from their principal native officer in the Foujdarry department, countersigned by themselves, stating concisely the date and ground of the former apprehension of each prisoner, and the issue of the case.

for the guidance of the courts of circuit.

2. The Court observe that the adoption of this measure may sometimes be attended with benefit to a prisoner, by showing that his former apprehension was on inadequate grounds, and that he was acquitted and released unconditionally.

3. On the other hand should the evidence against the prisoner on the new trial, be not sufficient for his conviction, but enough to warrant suspicion of his general character and livelihood, the report in question will enable the courts of circuit to refer more readily to the former proceedings, and to determine upon the propriety or otherwise of directing that the prisoner be required to give security for his future good behaviour.

4. You are desired to transmit a copy of this letter to the several magistrates and joint magistrates within your division, for their information and guidance.

TO THE ZILLAH AND CITY MAGISTRATES AND JOINT MAGISTRATES.

No. 204. *July* 2, 1818.

Communicating to the magistrates the determination of the Vice-President in Council, on the difference of opinion between the magistrate of Purnea and the civil surgeon of the place, regarding inquests over the bodies of prisoners reported to have died in jail.

I AM directed to transmit for your information and guidance, the accompanying copy of a letter addressed on the 23rd ultimo, by the acting chief secretary to Government, to the magistrate of Zillah Purnea.

(COPY.)

I am directed by the Honorable the Vice-President in Council to acknowledge the receipt of your letter of the 10th instant, forwarding copies of a correspondence which has taken place between you and Mr. Davidson, the surgeon attached to the civil station of Purnea.

2. On a full consideration of the questions discussed in that correspondence, the Vice-President in Council is of opinion that it would be objectionable to require the surgeons attached to civil stations, personally to perform the duty of inspecting previously to their removal, the bodies of all prisoners reported to have died in the jail: it appears to the Vice-President in Council to be sufficient that the orders issued on this head, on the 29th June, 1801,* be regularly adhered to; that the native doctors be selected with due attention to their qualifications; that the surgeons furnish to the native doctors such precautionary instructions as may be calculated to guard against the future occurrence of an accident of the same nature as that which led to the present correspondence; and that in any case in which there may appear to the native doctor or other officers associated with him, to be the slightest doubt with regard to the actual death of a prisoner, the body be not removed until it shall have been examined by the surgeon himself.

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* See No. 26, Vol. I.

TO THE COURTS OF CIRCUIT.

October 30, 1818.

No. 209.

Transmitting copy of a letter from Government, authorising the magistrates to furnish to all indigent prisoners, the quantity and description of clothing, as is now, or may hereafter be, furnished to convicts; and specially authorising the magistrates within the divisions of Benares and Bareilly, to furnish annually an additional blanket beyond the articles now allowed to prisoners under their charge.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for the information and guidance of the several magistrates (or joint magistrates) subject to your authority, the accompanying copy of a letter from the secretary to Government in the judicial department, under date the 16th instant.

It is requisite that this should be circulated without delay.

Copy of a Letter from the Secretary to Government in the Judicial Department, dated the 16th October, 1818, to the Acting Register of the Nizamut Adawlut.

I am directed by His Excellency the Most Noble the Governor General in Council, to acknowledge the receipt of a letter from you, dated the 17th ultimo, with its enclosures.

2. Under the circumstances mentioned by the Court, the Governor General in Council is pleased to authorise the several magistrates throughout the lower and western provinces, to furnish to prisoners under examination, or committed for trial, and generally to all other prisoners, who may from indigence be unable to supply themselves, the same quantity and description of clothing, as is at present, or may hereafter be authorised, for those prisoners who are strictly denominated convicts.

3. The magistrates will exercise their discretion in furnishing such articles for the prisoners above alluded to, with reference to their real wants and necessities, whether at the time at which the prisoners may first be brought in, or at any other periods during their confinement.

4. The Governor General in Council entirely concurs with the Nizamut Adawlut, in the suggestion contained in the 6th paragraph of your letter; and he is accordingly pleased to authorise the magistrates of the several stations within the divisions of Benares and Bareilly, to furnish annually an additional blanket to the prisoners under their charge, beyond the articles at present allowed.

5. The Court are requested to communicate the purport of this letter through the courts of circuit, for the information and guidance of the several magistrates.

6. A copy of the correspondence will be sent to the civil auditor from this office, for his information and guidance.

7. I have the honor to return the accompanying original documents, which are not required for record in this office.

TO THE SEVERAL MAGISTRATES (AND JOINT MAGISTRATES)*

No. 210. *November* 19, 1818.

Directing the magistrates to exercise their discretion in placing prisoners charged with burglary in fetters, or not, according to the nature of the offence, and the character and circumstances of each prisoner, but having in view his safe custody.

It has appeared to the Nizamut Adawlut advisable to reconsider the Circular Order issued to the several magistrates, under date the 23rd July last, on the subject of confining in irons all prisoners committed for trial on charges of burglary. With reference to some new rules soon to be enacted for modifying the punishment of burglary, and to the trivial quality of the offence in some instances, which are nevertheless unavoidably classed under a description importing serious guilt, it appears expedient that you should exercise your discretion as to confining prisoners charged with burglary in fetters, or not, according to the nature of the offence charged, and the character and circumstances of the individual prisoner, having in view merely to ensure the prisoner's safe custody.

TO THE COURTS OF CIRCUIT.

No. 215. *January* 25, 1819.

Calling the attention of the courts of circuit to a circular letter, dated 12th August, 1813, on the subject of being in possession of property obtained by theft or robbery, as distinguished from the offence of knowingly receiving such property; and transmitting the further observations of the Nizamut Adawlut on such cases.

The Court of Nizamut Adawlut direct me to call your attention to a circular letter written by their order to the several courts of circuit, under date the 12th August, 1813, on the subject of being in possession of property obtained by theft or robbery, as distinguished from the offence of knowingly receiving property so obtained.

2. Against this offence of knowingly receiving property obtained by theft or robbery, the penalties of Sections VII. and VIII., Regulation I. 1811, (now superseded by the provisions contained in Section V., Regulation XII. 1818,) were particularly directed.

3. With respect to the act of having possession of property obtained by theft or robbery, without having received it with the knowledge that it was so obtained, such knowledge having only subsequently arisen, it was mentioned in the last paragraph of the circular letter above alluded to, that this act was "of course punishable under the Mahomedan law and the Regulations;" but by this it was not intended to declare that it was in every instance punishable, as it must obviously depend on the circumstances of each particular case whether the act in question is, or is not, a criminal offence.

4. Where it is determined, on the circumstances, to be an offence, and is left punishable by the futwa at discretion (as the act is evidently of a very different complexion from that of being a criminal receiver of stolen goods, and thereby a principal encourager of goods being stolen,)

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* A copy of this letter was, on the same date, sent to the several courts of circuit.

it is the opinion of the Nizamut Adawlut that it should be punished as a misdemeanor not of a very serious nature, and that the sentence should by no means be made the same with that hitherto appointed for the offence of knowingly receiving stolen property, namely, seven years' imprisonment with stripes, which, however, has been observed in some of the abstract statements of prisoners punished without reference, lately transmitted.

5. In instances which may hereafter come before the courts of circuit, and in which the fact of possessing or keeping possession of property acquired as above stated, may be determined, on the circumstances, to be a criminal offence, it appears to the Nizamut Adawlut that, viewing it as a common misdemeanor, a sentence equal to that to which the magistrates are limited by the new Regulation XII. of 1818, is sufficient in most cases, as a maximum of punishment: accordingly, in any instance where a higher penalty may have been adjudged, the Nizamut Adawlut desire that a particular statement of the grounds of such sentence may be inserted in the abstract statement of prisoners punished without reference.

6. From the remarks contained in the foregoing paragraphs, it will be seen how essential it is, in the trial of charges for receiving stolen property, or property acquired by robbery, not only that the evidence to ground a conviction, should go to the mode and circumstances of the receipt, and not to the mere fact of possession, but also that the law officer, where it is intended by him to convict of the criminal receipt, should specify the same clearly and precisely in the terms made use of in the futwa.

7. By the fourth clause of Section IV., Regulation XII. of 1818, it is provided, under the circumstances there stated, that the fact of having possession of property acquired by theft or robbery, the knowledge that it was so acquired having only arisen since the receipt of it by the possessor, may be punished by the magistrate with a period of imprisonment not exceeding two years, and corporal punishment not exceeding thirty rattans. Under the discretion which this rule allows to the magistrate, and the construction of it which the Court of Nizamut Adawlut have adopted, the magistrate is considered to have a discretion not to punish at all, in cases in which no criminal act shall appear to be fairly imputable to the *bonâ fide* purchaser or possessor of property acquired by robbery or theft.

8. You are requested to circulate a copy of this letter for the information of the several magistrates within your division.

NOTE.—See Nos. 115 and 124, Vol. I.

TO THE COURTS OF CIRCUIT IN THE LOWER PROVINCES.

August 27, 1819. No. 223.

Restricting the magistrates in the lower provinces from

THE Nizamut Adawlut have thought it necessary to resolve that the magistrates be generally restricted from passing a sentence in cases of misdemeanor, for fetters being placed on the offender, and that fetters *

passing sentence imposing fetters on offenders convicted of misdemeanors, except in cases of special necessity.

shall not be used in such cases, except in the event of special necessity arising out of bad conduct of the offender during his imprisonment, which may make such restraint indispensable for his security. The magistrates, therefore, in placing fetters, under this restriction, on any person convicted of misdemeanor, will record on their proceedings the grounds of the measure in each case.

TO THE COURTS OF CIRCUIT IN THE WESTERN PROVINCES.

August 27, 1819.

No. 224.

Restricting the magistrates in the western provinces, from passing sentence, imposing fetters on offenders convicted of misdemeanors, except in cases of special necessity.

WITH reference to certain instances which have lately come under the notice of the Nizamut Adawlut, of persons sentenced by the magistrates in cases of misdemeanor, having been worked on the roads, and put into fetters, when such exposure was not necessary or proper, with reference to the offence committed, and the class or profession of the offender; I am directed to communicate, for the information and guidance of the magistrates in your division, the enclosed extracts (paragraphs 7 and 8) from a circular letter,* under date the 20th April last, addressed by order of the Nizamut Adawlut to the courts of circuit in the lower provinces.

2. I am further directed to communicate that the Court have now resolved, that the magistrates shall be restricted generally from passing a sentence, in cases of misdemeanor, for fetters being placed on the offender; and that fetters shall not be used in such cases, except in the event of special necessity arising out of bad conduct of the offender during his imprisonment, which may make such restraint indispensable for his security. The magistrates, therefore, in placing fetters under this restriction, on any person convicted of misdemeanor, will record on their proceedings the grounds of the measure in each case.

TO THE COURTS OF CIRCUIT.

January 7, 1820.

No. 228.

Desiring the courts of circuit to observe an uniform practice as herein described, in obtaining the exposition of the law from the presiding law officer, in trials for murder.

THE Court observing that in trials for murder an uniform practice is not observed by the several courts of circuit, in obtaining the exposition of the law from the law officer presiding at the trial,—that in some of the courts an additional question is put to the law officer whether the crime of wilful murder is proved against the prisoner or prisoners, or any of them, to which the law officer subscribes a distinct concise answer, that it is proved, or that it is not proved, after which the law officer is called on for his general futwa in the case, but that, in other courts, this course is not regularly pursued, and the Court deeming the practice above described to be best calculated to remove all doubts regarding the intention of the law officer, I am directed to desire that it may be uniformly pursued hereafter throughout the several courts of circuit.

* Not printed: for reasons, see Appendix.

TO THE COURTS OF CIRCUIT.

January 14, 1820. No. 229.

Transmitting an extract of a letter from the chief secretary to Government, and authorising the admission into the public jails, of the armed attendants of a judge of circuit when accompanying him on his visits to those jails at the periodical sessions.

I AM directed by the Nizamut Adawlut to transmit, for your information and guidance, and that of the several magistrates in your division, the enclosed extract (paragraph 2) from a letter to my address from the chief secretary to Government, under date the 31st ultimo, occasioned by a reference from Mr. Courtney Smith, and connected with the visits of the judge of circuit to the jails of the different stations at the periodical sessions.

You are requested to instruct the several magistrates accordingly.

Extract of a Letter from the Chief Secretary to Government, under date the 31st December, 1819.

PARA. 2. No practical inconvenience is likely to result from the armed attendants of a judge of circuit accompanying their master on the occasion of his visiting the jails, and it will be sufficient that the magistrates be instructed to apprise the European or native officers commanding the guards stationed at the jails, that the rule precluding the admission of armed men into the jails, is not intended to apply to persons whom the judge of circuit may take with him on his visits to the jails. To prevent the chance of any mistake, however, the magistrates may be conveniently directed to repeat this notification on the arrival of the judge of circuit at the station, or at the commencement of each sessions of jail delivery.

TO THE COURTS OF CIRCUIT IN THE WESTERN AND LOWER PROVINCES.

September 1, 1820. No. 239.

The courts of circuit required to state, in the abstract statements of sentences passed without reference, at present furnished to the Nizamut Adawlut, the circumstances which induced the magistrates to commit to the courts of circuit, cases of theft, burglary, or receipt of stolen property, instead of disposing of such cases themselves; and requesting that the magistrates be also instructed hereafter to record such information in their roobukarees of commitment.

THE Nizamut Adawlut direct me to request, that hereafter, in the abstract statements of sentences passed without reference, the judge of circuit will make it a rule to state, with regard to convictions for theft, burglary, or receipt of stolen property, what were the circumstances which induced commitment to the court of circuit, and took the cases out of the magistrate's competence to pass sentence.

2. There are many cases in which the abstract statements, as now made out, necessarily show this; but there are also many in which the Nizamut Adawlut have no means of seeing why the cases were committed, or whether the commitments were proper.

3. With a view to facilitate a compliance with this order, the courts of circuit are desired to instruct the several magistrates within their division, to make a point of recording on their roobukarees of commitment, the express circumstance or circumstances of aggravation, which may have led them to commit the case, instead of disposing of it themselves, under Regulation XII. of 1818.

NOTE.—See No. 234, Vol. III.

TO THE PROVINCIAL COURTS OF APPEAL AND CIRCUIT IN THE WESTERN AND LOWER PROVINCES.

No. 241. *November* 10, 1820.

Transmitting an extract of a letter from the chief secretary to Government, relative to the exercise of the authority vested in the magistrates for securing the aid and influence of the proprietors and local managers or agents of estates, in the performance of the police duties imposed upon them.

I AM directed by the Nizamut Adawlut to transmit to you, with a view to its being communicated to the several magistrates and joint magistrates in your division, for their information and guidance, the enclosed extract of a letter (paragraphs 4, 5 and 6,) from the chief secretary to Government, under date the 13th ultimo.

When you have made the required communication, you are requested to report the same to the Nizamut Adawlut.

Extract of a Letter from the Chief Secretary to Government, to the Register of the Sudder Dewanny Adawlut, under date the 13th October, 1820.

PARA. 4. His Lordship in Council cannot but apprehend that much of the reluctance felt by the proprietors and managers of estates to give their ready and active assistance in matters of police, is not unfrequently to be ascribed to an injudicious and intemperate use of the authority vested in the magistrates to enforce certain police duties from the zemindars.

5. The discharge of those duties by the proprietors and managers of estates, or their agents, is undoubtedly essential to an efficient police; but a harassing, vexatious, and indiscriminate interposition of the magistrate's authority, in cases of trifling importance, is not calculated to secure their useful co-operation. If the proprietors of estates are compelled to attend at the magistrate's cutcherry, to answer for every petty inattention or supposed irregularity in the discharge of the duties entrusted to them, they will naturally be led to avoid residing on their estates, and to thwart rather than to forward the views of the magistrates. The powers vested in the magistrates are abundantly sufficient to enable them to visit with severity any frequent disregard or violent breach of the police duties intrusted to zemindars; but their willing and cordial, and really useful aid, is to be obtained only by a temperate and conciliatory, though firm, exercise of those powers; by a liberal consideration of trivial errors or defects; by an uniform acknowledgment of useful services; and by the willing distribution of praise and reward when merited.

6. Under this impression, His Lordship in Council is of opinion that the Court of Sudder Dewanny Adawlut and Nizamut Adawlut might conveniently take the present opportunity to circulate to the magistrates and joint magistrates generally, such observations as might appear calculated effectually to discourage a harsh and intemperate exercise of the authority vested in the magistrates for securing the performance of the police duties imposed upon the proprietors and local managers or agents of estates, and might lead to the

general observance of a cautious, discreet, and conciliatory line of conduct, in securing the invaluable aid and influence of the persons above alluded to in matters of police, which can never be obtained by unnecessary harshness and indiscriminate severity.

NOTE.—See No. 53, Vol I.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES IN THE WESTERN PROVINCES.

January 26, 1821. No. 242.

Requiring implicit obedience from the police darogahs in the western provinces to Clause 1, Section XIX., Regulation XX. 1817, which directs, that the confession of a prisoner be immediately written down in the language best understood by him.

. THE superintendent of police for the western provinces having brought to the notice of Government, and Government to the notice of the Court, a practice stated to prevail amongst many of the police darogahs in different districts of the divisions of Bareilly and Benares, namely, of their taking the confessions of prisoners in the Persian language, I am directed by the Nizamut Adawlut to desire, that you will enjoin implicit obedience on the part of the police darogahs in your district, to the rule contained in Clause 1, Section XIX., Regulation XX. 1817, namely, that in the event of a "prisoner's making a free and voluntary confession, "it shall be immediately written down, if practicable, in the language "*best understood by the persons confessing.*"

TO THE BENARES COURT OF CIRCUIT AND TO THE COURTS OF CIRCUIT IN THE LOWER PROVINCES*.

June 8, 1821. No. 245.

Calling the attention of the magistrates and joint magistrates to the necessity of their exercising the powers they possess under Regulation VIII. of 1818, with due caution and discretion.

THE attention of Government having been recently attracted to an abstract statement of prisoners detained under requisition of security by a magistrate of a zillah in the western provinces, revised and submitted by a judge on circuit through this Court to Government, wherein it appeared that 54 individuals had been detained in some of the cases merely on suspicion of their being bad characters, without any direct evidence to the fact, and in others, merely because they had been before apprehended, or convicted of specific offences; and His Excellency the Most Noble the Governor General in Council apprehending that a greater laxity may prevail in requiring security from individuals on the ground of bad character, than is consistent with the spirit and intention of the provisions contained in Regulation VIII. 1818, I am directed by the Court of Nizamut Adawlut to request that you will call the attention of the ma-

* The Bareilly court of circuit was written to separately on the same date.

gistrates and joint magistrates of the districts in your division, to the necessity of their exercising the powers they still possess under Regulation VIII. 1818, with due caution and and discretion.

TO THE SEVERAL COURTS OF CIRCUIT.

No. 247. *November* 24, 1821.

Directing the magistrates to conform strictly to the rules contained in Section XVI., Regulation XX. 1817, relative to the search by the police officers for plundered or stolen property, and communicating instructions regarding the prescribed chullan, for the guidance of the judges of circuit and magistrates.

THE Court having lately had occasion to observe that many irregularities are committed by the police officers in conducting the search for stolen or plundered property, which they are authorised to make under the rules contained in Section XVI., Regulation XX., 1817, I am directed to desire that you will instruct the magistrates and joint magistrates in your division, to conform strictly to the rules prescribed for the purpose in the section above quoted, and to be particular in the transmission of the chullan, or dispatch, of stolen or suspected property obtained during a search, in the form No. 3 prescribed by that Regulation.

2. I am also directed to desire that the judges of circuit, presiding at any trial at all depending on the question of the discovery of any stolen property obtained on a search made by the police officers, enter upon the record of the trial the original chullan, with a translation of it in Persian when the original may be in any other language.

TO THE COURTS OF CIRCUIT IN THE LOWER PROVINCES.

No. 253. *May* 3, 1822.

Transmitting an extract from the resolutions of Government, for the information and guidance of the magistrates in the lower provinces, requiring the public officer to whose department the work may belong, to report to Government delays in the execution of repairs and alterations of public buildings.

THE Court of Nizamut Adawlut direct me to forward to you, for your information and guidance, the subjoined extract (paragraph 6) from the resolutions of Government in the judicial department, received with Mr. Secretary Prinsep's letter to my address of the 15th ultimo.

2. You are requested to make the necessary communication to the several magistrates subject to your authority.

Extract from the Resolutions of Government in the Judicial Department, dated the 15th April, 1822.

PARA. 6. His Lordship in Council has, on more than one occasion, had to remark upon the delays, which, for one cause or another, have retarded the execution of repairs and alterations of public buildings in the Dacca division, after they have been sanctioned by Government, and ordered to be effected through the superintendent of civil buildings, and, in the lower provinces, his subordinate officers. The great extent of country allotted to each of these officers, and the variety of works in hand, together with their distance from each other, are doubtless some of the

principal causes of these delays. His Lordship in Council, however, in order to obviate as much as possible the serious inconveniences resulting therefrom, resolves, that henceforward the superintendent of civil buildings be on every occasion desired to state the particular arrangement made to put the work in train of execution, and the date on which it will be commenced and finished. In case the assistants in that department should be otherwise employed, so as to render it impossible for them to commence the work at the time; or if, for any other reason, no progress shall have been made on the date indicated to Government, it will be the duty of the magistrate, or other public officers, to whose department the work may belong, to report the circumstances to Government, in order that measures suitable to the exigency of the case may be taken.

TO THE SEVERAL COURTS OF CIRCUIT.

May 10, 1822. No. 254.

Communicating, for the information and guidance of the magistrates, the resolution recorded by Government, that any expenses occasioned by neglect of a superior court's order, directing the restoration of a native officer to office, shall be made good by the person guilty of such inattention.

I AM desired by the Court of Nizamut Adawlut to acquaint you that an instance has lately been brought to the notice of Government, in which a magistrate omitted to restore a native officer to office, whose restoration was directed by the Nizamut Adawlut, under Clause 7, Section VII., Regulation XVII. 1816, and large arrears of salary having become due to such officer, the question arose from what funds the arrears were to be discharged, his salary pending his exclusion from office having been paid to his substitute. In the particular instance alluded to, the amount was defrayed by Government; but his Lordship in Council has at the same time recorded a resolution that as Government ought not to be responsible for any expenses occasioned by such inattention, he will be prepared, on the recurrence of any similar instance, to direct such part of the extra charge as may have arisen from non-compliance with orders, to be retrenched from the allowances of the person by whose fault the restoration to office may have been delayed, after receipt of orders to that effect from a superior court.

2. The Court of Nizamut Adawlut deeming it expedient that this resolution should be generally promulgated, you are requested to furnish the several magistrates within your division with a copy of this letter, for their information and guidance.

TO THE SEVERAL COURTS OF CIRCUIT.

August 9, 1822. No. 260.

Transmitting the copy of an endorsement on the warrant in a capital case, received from the acting magistrate of

THE Court of Nizamut Adawlut having observed that a great want of uniformity prevails in the mode of endorsing warrants, direct me to transmit to you, for the purpose of being communicated to the several magistrates, the accompanying copy of an endorsement received from the zillah of Sylhet; and you will be pleased to desire the magistrates within your division to make their endorsements correspond in future with this form.

Foujdaree Adawlut, Zillah Sylhet.

Sylhet; and directing the magistrates to make their future endorsements correspond with that form.

I hereby certify that the sentence of death passed on Lurrye Chung, son of Runghye Chung, by the Nizamut Adawlut, has been duly executed; and that the said Lurrye Chung, son of Runghye Chung, was accordingly hung by the neck till he was dead, at the town of Sylhet, on Saturday the 23rd day of March, 1822.

I further certify that the body of the said Lurrye Chung, son of Runghye Chung, was afterwards conveyed to the place where the crime, of which he was convicted, was committed, and there suspended on a gibbet.*

Given under my hand and the official seal of this court, this 28th day of March, 1822.

(Signed) J. STAINFORTH,
Acting Magistrate.

TO THE SEVERAL COURTS OF CIRCUIT.

No. 264.

August 16, 1822.

Transmitting extracts from the report of the superintendent of police in the western provinces for 1820, and of the register's letter to Government thereon; and directing the magistrates to be cautious in issuing circulars, and to furnish the superintendents with copies of them; those authorities recommending to the provincial courts the reversal of any they may deem objectionable, and communicating any difference of opinion between them and the provincial courts, to the Nizamut Adawlut.

I AM desired to forward to you the accompanying extracts (paragraphs 275 to 280) from the report of the superintendent of police in the western provinces, for the year 1820, and an extract (paragraph 4) from a letter this day written to the officiating secretary to Government, in the judicial department, by order of the Court.

2. You are requested to furnish the several magistrates within your division, with a copy of these extracts, for their information and guidance.

Extracts from the Report of the Superintendent of Police in the Western Provinces, for the year 1820.

PARA. 275. I shall now beg the attention of His Lordship in Council to a practice which I have reason to think prevails throughout the country. I allude to the issue of circular orders by the magistrates for the guidance of the police officers and zemindars.

276. Although Regulation XX., 1817, apparently defines very particularly all the duties to be performed by the police officers, there will always be some minute forms of proceeding in which the magistrates are fully justified in issuing instructions, although not actually enjoined by the above quoted or any other Regulation; but as these circular orders are intended to have, and ought to have, all the effects of laws, it appears to me absolutely necessary that the magistrates should not be allowed to issue them without the previous sanction of the Government, unless they should be for the purpose of publishing a Regulation or rule of a superior Court.

277. A Circular Order of the Nizamut Adawlut, dated May 7th, 1812,† communicated to the magistrates the desire of Government that they should refrain from issuing publications of a general nature to the inhabitants of the provinces; but I do not think that these

* Gibbeting bodies is prohibited. *Vide* No. 140, Vol. II.
† See No. 112, Vol. I.

orders have been much attended to, for very numerous Circular Orders have been issued by the magistrates in these provinces since that date, without any previous reference, and many of them are addressed to the inhabitants generally, as well as to the police officers.

278. There is a rule which I think every magistrate ought to impose upon himself, that of never issuing an order which he cannot enforce, or of threatening what he has not power to execute. A strict observance of this law will teach the magistrate to weigh carefully every order he gives, and prove to the inhabitants of his jurisdiction that his word is always law, and that implicit obedience is the best policy. It will be at once seen how dangerous this uncontrolled license to legislate must frequently prove, when not checked by sound judgment and discretion. The magistrate perceives what he conceives to be wrong, and a great inconvenience to the people themselves ; he immediately reforms it by a Circular Order, to which he cannot enforce obedience, even if he can ascertain that it is disregarded, which he frequently cannot. Such an order is one to the following effect, issued by a magistrate in the upper provinces in March 1820 :—"It appearing that various descriptions of weights and measures are used in the district, and it being proper that they should be reduced to one standard, it is ordered that the seer shall consist of 96 sicca weight, and the yard (guz) of two hauths, and that these weights and measures be sealed with the seal of the court, and that any one using others shall be punished." This order is calculated to have no other effect than that of lowering the magistrate in the opinion of the people, for they will not obey it, and he cannot enforce it. The following is a greater stretch of power, and in my opinion not only altogether illegal, but in many parts highly objectionable :—"The putwarees are directed to keep a descriptive list of the cattle in their respective villages : no sale of cattle to take place on a road or plain : cow-keepers to inform when stray cattle come among their flocks : when a sale of cattle takes place, the putwaree shall grant to the purchaser a certificate descriptive of the cattle, and containing the name of the seller : he shall also enter all this in a book, kept for the purpose, and receive a fee of two pice on every sale. When newly-purchased cattle shall be brought to his village, the putwaree shall enter their description in his book, and receive one pie. If any person brings an ox or cow to the village, without a certificate, the putwaree shall inform the darogah. The putwaree shall also make a list of the people residing in his village, men, women, and children, and of their cattle."

279. Now, the magistrate has certainly no authority which allows him to invest the putwarees with police powers, and to demand fees ; nor could he punish any one for disobeying his order, which seems to me calculated to harass and annoy the people much more than the offence which it was intended to prevent. Another magistrate, not satisfied with directing the general appointment of village chowkeedars, issued an order, that they should be dressed in a particular uniform, to distinguish them from the other inhabitants.

280. I submit the above as specimens of Circular Orders, and if they are not sufficiently demonstrative of the expediency of checking the practice of issuing them, I could produce many more equally objectionable. But on general grounds that the magistrates should not impose laws without the sanction of the Government, I beg leave to recommend that it be ordered, that every Circular Order which the magistrates may think it necessary to issue, shall be submitted through this office, for the approval either of the Governor General in Council, or of the Nizamut Adawlut, and that the order be not published until sanctioned by one of those authorities.

Extract of a letter from the Acting Register of the Nizamut Adawlut, to the Acting Secretary to Government in the Judicial Department, dated 16th August, 1822.

PARA. 4. The Court beg leave to express their concurrence generally in the opinion entertained by Mr. Ewer, as to the impropriety of circular instructions being issued by the magistrates; and, with the view of checking the prevalence of so objectionable a practice, the Court have resolved to circulate to the several magistrates, through the courts of circuit, those paragraphs of Mr. Ewer's letter which have relation to the subject; to enjoin them, at the same time, to be particularly cautious in the promulgation of general or Circular Orders, and to furnish the superintendents of police, immediately on their promulgation, with a copy of all orders, of the description, which they may deem it necessary to issue. The superintendents of police will also be requested to communicate to the provincial courts of the several divisions, with a view to their reversal, any orders of a general or circular nature, issued by the magistrates, which they may consider objectionable; and in the event of any difference of opinion between those authorities as to the tendency of such orders, to refer the point to this Court for final adjustment.

NOTE.—See No. 7, Vol. III.

TO THE COURTS OF CIRCUIT.

January 10, 1823.

No. 272.

Communicating instructions, for the guidance of the magistrates and joint magistrates, with a view of obviating the hardship to which

IT has occurred to the Nizamut Adawlut, as being probable, that many individuals, apprehended on bailable charges, may have been exposed to unnecessary hardship, by the omission, on the part of the magistrates, to record a specific order in their proceedings, declaring that security will be received, and specifying its amount. I am desired to request, that you will instruct the several magistrates and joint magistrates, subject to your jurisdiction, that in all complaints preferred to them for offences which are clearly bailable, and in which there

can be no ground for refusing bail if offered, they lose no time in apprising the party complained against, that security will be received for his appearance, at the same time stating the amount in which it may be required. The magistrates should further certify on the record, the offer (and the terms of it) of the liberation on bail, taking particular care, at the same time, that the amount demanded be not excessive, or in any way disproportionate to the nature of the offence, or the circumstances in life of the accused party.

individuals apprehended on bailable charges are unnecessarily exposed, from the magistrate's omission to record a specific declaration that security will be received, and to specify its amount.

TO THE SEVERAL COURTS OF CIRCUIT.

February 21, 1823.

No. 273.

THE Court of Nizamut Adawlut deeming it desirable that in cases referred to this Court from the courts of circuit, they should have an opportunity of inspecting the magistrate's calendar of commitment, desire me to request you will, on all future occasions, annex to the record of the trial, in each referred case, an exact copy of the Persian calendar as submitted by the magistrate to your court.

Directing the courts of circuit to annex to the record of the trial in each case referred to the Nizamut Adawlut, a copy of the magistrate's Persian calendar of commitment.

TO THE SEVERAL COURTS OF CIRCUIT.

May 16, 1823.

No. 276.

THE Court of Nizamut Adawlut having experienced much inconvenience in the consideration of evidence in trials wherein articles of stolen or plundered property have been produced without due precaution having been taken before the court of circuit, in numbering and describing each article separately, I am instructed to communicate the following orders for the future guidance of your court and of the magistrates subject to your authority.

2. In all trials, wherein property may be produced in court as evidence against persons accused, the judge of circuit presiding at the trial, will be careful to describe in his proceedings, and to quote the number of each article of property produced before the court of circuit, and adverted to in the examinations of parties and witnesses on the trial, according to the description and number affixed to such article in the chullan or despatch, which the police darogah is required to transmit to the magistrate, by clause 2, Section XVI., Regulation XX. 1817.

3. The magistrates will require their police darogahs to pay strict attention to the rule above quoted, and, in their proceedings on

Communicating instructions, for the guidance of the courts of circuit and magistrates, relative to numbering and describing articles of stolen or plunderde property.

the commitment, in cases of the description referred to, will invariably number and describe the property, according to the number and description used in the despatch of the police darogah.

TO THE SEVERAL COURTS OF CIRCUIT.

No. 281.

November 26, 1823.

Directing that, in referring trials to the Nizamut Adawlut, the original confessions of prisoners, taken down in their peculiar dialects, may be accompanied by Persian translations.

THE Court of Nizamut Adawlut having been exposed to considerable inconvenience, by the circumstance of the confessions of prisoners, taken down in their peculiar dialects, being submitted with the trials, unaccompanied by a translation thereof in a language generally known, I am desired to request that on all future occasions of reference to this Court, you will cause the original confessions to be accompanied by accurate translations in the Persian language.

TO THE SEVERAL COURTS OF CIRCUIT.

January 23, 1824.

No. 283.

Desiring the judges of circuit to submit on the conclusion of each sessions, copies of the futwas in all cases of prisoners punished without reference to the Nizamut Adawlut.

THE Court of Nizamut Adawlut having experienced considerable advantage from the practice of receiving copies of the futwas in cases of persons acquitted by your court at the several sessions, which you were required to furnish by the Court's Circular Order under date the 16th August 1822,* and being of opinion that the duty of supervision will be materially facilitated by their being furnished with copies of the futwas in cases of conviction also, I am desired to request that, in addition to the statements now submitted by you on the conclusion of the sessions for each zillah within your division, you will furnish copies of the futwas in all cases of prisoners punished by you without reference to this Court.

* See No. 264, Vol. I.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES, INCLUDING CUTTACK.

March 19, 1824.

No. 285.

Transmitting extract of a letter from Government, and requiring the magistrates and joint magistrates to adopt the mode of proceeding therein pointed out, on any occasion of the number of prisoners being greater than can be conveniently accommodated in the proper jail.

I AM desired by the Court of Nizamut Adawlut to transmit to you the accompanying extract (paragraphs 3 and 4) of a letter from the chief secretary to Government, under date the 4th instant, and to require that you will in future adopt the mode of proceeding therein pointed out, on any occasion of the number of prisoners being greater than can be conveniently accommodated in the proper jail.

Extract of a letter from the Chief Secretary to Government to the Register of the Nizamut Adawlut, under date the 4th March, 1824.

PARA. 3. The circumstances stated in the correspondence which accompanied your letter, as well as on former occasions of a similar nature, render it expedient, in the judgment of Government, that a Circular Order should be issued by the Court of Nizamut Adawlut, to all the magistrates and joint magistrates, authorising and enjoining them, whenever the number of prisoners may be greater than can be conveniently accommodated in the proper jail, to hire, without previous application to Government, any suitable buildings which may be procurable, or to accommodate a portion of the prisoners in tents or boats, or to incur such expense as may be necessary to provide, in any other manner, for the temporary shelter and safe custody of the prisoners.

4. On such occasions the magistrates should forthwith report the arrangements they may adopt for the information of the Nizamut Adawlut and of Government, explaining, at the same time, the cause of any sudden augmentation in the number of prisoners, which may have rendered such temporary arrangements necessary.

NOTE.—See No. 68, Vol. II.

TO THE SEVERAL COURTS OF CIRCUIT.

April 2, 1824.

No. 287.

Communicating instructions, with a view of obviating the annoyance and detriment to their private concerns to

THE Court of Nizamut Adawlut having been informed that a practice prevails in some districts of requiring respectable persons, who are held to bail on charges of a trivial nature, to remain for a length of time in constant attendance at the sudder station of the district, to their great annoyance, and to the detriment of their private concerns, I am directed by the Court to desire that you will call the particular attention of the magistrates and joint magistrates in your

which respectable persons are exposed, who are held to bail on charges of a trivial nature, by being required to remain for a length of time in constant attendance at the sudder station of some districts.

division, to the extract from the letter of the chief secretary to Government, under date the 13th October 1820,* circulated on the 10th November of the same year, and that you will desire them to appoint a particular day for the attendance in court of persons on bail, whenever a longer period than one week may be likely to elapse between the proceedings.

2. You will also be pleased to direct the magistrates and joint magistrates to lay before the judge of circuit, at each sessions, a statement exhibiting the names of all persons at large on bail; the offences with which they are charged; the period during which the cases have been pending; and the reasons why they have not been disposed of.

TO THE SEVERAL COURTS OF CIRCUIT.

No. 291. *May* 7, 1824.

Transmitting an extract from the Court's resolutions on the subject of referring to them all trials, in which the prisoners may be convicted of administering poisonous drugs to persons, with a view to robbing them when in a state of insensibility, whether death may ensue, or otherwise.

I AM directed by the Court of Nizamut Adawlut to transmit, for your information and future guidance, an extract (paragraph 6) from the resolutions of the Court of this date, relative to the crime of administering poisonous drugs to persons, with a view to robbing them when in a state of insensibility.

2. I am further directed by the Court to observe that, under their construction of clause 4, Section VIII., Regulation XVII. 1817, as applicable to such cases, it will be necessary to refer, for the final sentence of the Nizamut Adawlut, all trials in which the prisoner or prisoners may be convicted of the offence in question, whether death may ensue or otherwise.

Extract from the Remarks and Orders of the Nizamut Adawlut, under date the 7th May, 1824, *on the Chief Secretary's letter of the 6th November last, forwarding the Report of the Superintendent of Police in the Lower Provinces for the year* 1822, *and the Resolutions of Government thereon.*

PARA. 6. The Court regret to observe that the crime of administering poisonous drugs to travellers and other persons, with a view of robbing them when in a state of insensibility, appears to be increasing both in the lower and western provinces. They do not however consider that any further enactment is necessary for the punishment of persons guilty of this atrocious crime, as, in the event of death ensuing, the offender would on conviction be liable to the punishment of wilful murder, and when death may not ensue, as life is endangered by administering poisonous drugs in order to cause insensibility, such cases appear to come within the provisions of clause 4, Section VIII., Regulation XVII. 1817, relative to cases of robbery and theft, or the attempt to commit such, when accompanied with an

* See No. 241, Vol. I.

attempt to commit murder, or with corporal injury in such degree as to endanger life. In all such cases, the trial is referrible to the Nizamut Adawlut; and the offenders who may be convicted to the satisfaction of this Court, are liable to a sentence of 39 lashes with a *corah*, and imprisonment and transportation for life.

TO THE SEVERAL COURTS OF CIRCUIT, BENARES EXCEPTED.

May 14, 1824.

No. 292.

Communicating the determination of the Court that prisoners sentenced to imprisonment for a limited period, shall be furnished with certificates showing when their sentences will expire, with a view of preventing their being confined beyond their sentences.

INSTANCES having been brought to the notice of the Nizamut Adawlut, of prisoners who have been inadvertently detained in jail beyond the period of their sentences, the Court, with a view to prevent the recurrence of similar mistakes, have determined that all prisoners sentenced by the courts of circuit, and also those sentenced by the Nizamut Adawlut, to imprisonment for a limited period, shall be furnished with a certificate, signed by the magistrate, and sealed with his official seal, showing the name of the prisoner, the crime of which he is convicted, the period of imprisonment to which he is sentenced, the date of the warrant, and the date on which the period of the sentence will expire.

2. Printed forms of the certificate, containing these particulars, will be transmitted as soon as possible to the several magistrates and joint magistrates.

3. In the mean time you will be pleased to issue the necessary instructions to the magistrates and joint magistrates in your division, requiring them, on receipt of the forms in question, to grant certificates to all prisoners of the above description, who may be now in confinement, and to grant them in future to all such prisoners, when their sentence is explained to them.

NOTE.—See Nos. 291 and 295, Vol. I.

TO THE SEVERAL COURTS OF CIRCUIT (EXCEPTING PATNA AND DACCA,) AND COMMISSIONERS OF CUTTACK AND RUNGPORE.

May 21, 1824.

No. 293.

Forwarding copy of a letter to the Patna court of circuit on the construction of Section VII., Regulation

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information and guidance, the accompanying copy of a letter addressed to the Patna court of circuit, by order of the Court, on the 2nd May, 1823, on the construction of Section VII., Regulation XVII. 1817, regarding the punishment of culpable homicide by stripes.

XVII. 1817, regarding the punishment of culpable homicide by stripes; which construction is not applicable to affrays attended with homicide, and coming under Section II, Regulation II. 1823.

2. I am directed to add that this construction is not of course applicable to cases of affray attended with homicide, and coming within the provisions of Section II., Regulation II. 1823.

Copy of a letter from the Register of the Nizamut Adawlut to the Patna Court of Circuit, dated 2nd May, 1823.

The Court of Nizamut Adawlut have had before them your fourth judge's letter, dated the 19th ultimo, in reply to the orders of this Court, under date the 7th of March last.

2. I am desired to communicate to you, for the information and guidance of your fourth judge, that the explanation furnished by him, regarding the punishment of stripes inflicted upon the prisoner Sohrye, is by no means satisfactory, and that, in the opinion of the Court, Section VII., Regulation XVII. 1817, was merely intended (as is manifest from the wording of the doubt which the enactment was made to explain) to limit the term of imprisonment, in commutation of *deyut*, to seven years, and not to authorise the infliction of stripes, which punishment, the Court conceive, can hardly be applicable with propriety to any case of culpable homicide.

3. The Court therefore desire that in future your fourth judge will refrain from awarding the infliction of corporal punishment in similar cases.

TO THE SEVERAL COURTS OF CIRCUIT, EXCEPTING BENARES.

No. 294. *June* 18, 1824.

Desiring the magistrates to insert in the certificates alluded to in the Circular Order of the 14th May, 1824, the age and personal description of the prisoner, and that the certificates be taken back when prisoners are discharged or die.

In continuation of my letter of the 14th ultimo,* on the subject of the certificates to be granted to prisoners sentenced by the courts of circuit and the Nizamut Adawlut, to limited periods of imprisonment, I am directed by the Court of Nizamut Adawlut to desire that you will instruct the magistrates in your division to insert in the certificate, in addition to the particulars before ordered, the age and personal description of the prisoner.

2. You will also be pleased to instruct the magistrates to cause the prisoners to deliver up on their discharge, the certificates which may be granted to them at the time of their sentences under the orders contained in the letter above-mentioned, as well as to be careful that such certificates are taken back and destroyed in cases of death before the expiration of the sentence.

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* See No. 292, Vol. I.

TO THE SEVERAL COURTS OF CIRCUIT, AND COMMISSIONERS OF CUTTACK AND RUNGPORE.

June 18, 1824. No. 295.

Forwarding printed form of the certificate for prisoners.

THE Court of Nizamut Adawlut desire me to forward herewith printed forms of the certificates alluded to in my letter of the 14th ultimo, * for the use of the magistrates and joint magistrates subject to your authority.

(FORM.)

Certificate, showing when the sentence of the undermentioned prisoner will expire.

1	2	3	4	5
Name of prisoner.	Crime of which he has been convicted.	Period of imprisonment to which he is sentenced.	Date of the warrant.	Date on which the period of his sentence will expire.

TO THE SEVERAL COURTS OF CIRCUIT, AND ACTING COMMISSIONER OF CUTTACK.

June 25, 1824. No. 297.

Desiring the magistrates to mention in the statements of prisoners punished under Regulation XII. 1818, in the cases of watchmen, whether they were employed as such at the time of committing the offence, and not to regard their offence as aggravated because they were watchmen for-

THE Court of Nizamut Adawlut having observed that the profession of prisoners in the statements furnished by the magistrates of prisoners punished by them under Regulation XII. of 1818, is frequently mentioned to be that of Gorayt, Dhanuk, or other denomination of village watchmen, without its being noticed whether the prisoner so denominated was employed as a watchman at the time of his committing the offence of which he is convicted, I am directed by the Court to desire that you will instruct the magistrates and joint magistrates in your division, to state distinctly, in the column of remarks, whether a prisoner whose profession may be that of Gorayt, Dhanuk, or any other description of watchman, was, at the time of committing the offence of which he may be convicted, actually employed in the capacity of guard or watchman, as described in Section IV., Regulation III. 1805, or otherwise.

2. I am directed by the Court to add, that where the prisoner was not a watchman at the time of committing the offence, the cir-

* See No. 292, Vol. I.

merly, or of their being so denominated.

cumstance of his having been one formerly, or his being so denominated, is not to be regarded as a circumstance of aggravation under Regulation XII. of 1818.

TO THE SEVERAL COURTS OF CIRCUIT.

No. 298.

August 6, 1824.

Communicating instructions in addition to those contained in the Circular of the 25th April, 1811, with a view to prevent delay in the commencement of the half-yearly sessions of jail delivery.

AN instance having occurred of considerable delay taking place in the commencement of the sessions of jail delivery of one of the divisions, from the circumstance of there not being present at the sudder station any judge who could proceed on the circuit at the usual period, and from no report having been made to the Nizamut Adawlut, in pursuance of their Circular Order of the 25th April, 1811, I am directed by the Court to communicate to you the following instructions, and to require your strict observance of them, with a view to prevent the recurrence of any similar delay.

2. In addition to the report directed in the Court's Circular Order of the 25th April, 1811, when the judge whose proper duty it may be, is prevented from proceeding on the circuit at the appointed period, you are desired to report at least one month (or six weeks in the Bareilly division) before the date prescribed by the Regulations for the commencement of each circuit, when there may be no judge at the sudder station who can proceed upon the ensuing circuit, or when, from whatever cause, there may be any impediment to the commencement of the next circuit at the fixed period.

3. You are further desired when there may be no such impediment, to report periodically, at the time above-mentioned, what judge of your court will proceed on the date prescribed by the Regulations, upon the duties of the approaching circuit.

TO THE COURTS OF CIRCUIT IN THE LOWER AND WESTERN PROVINCES, AND ACTING COMMISSIONER OF ZILLAH CUTTACK.

No. 299.

September 24, 1824.

Transmitting extracts from the report of the superintendent of police in the lower provinces for 1822, and from the resolutions of Government

I AM desired by the Court of Nizamut Adawlut to transmit to you the accompanying extract (paragraphs 60 to 64, both inclusive) from the report of the superintendent of police in the lower provinces, for the year 1822, together with a copy of the statement marked D in the appendix to the report, and copy of paragraphs 55 and 56 of the resolutions of Government on the said report, with directions that you will adopt the statement in question in future, and transmit it with your circuit reports.

Extract from the Report of the Superintendent of Police in the Lower Provinces for the year 1822, *under date the* 15*th October*, 1823.

thereon, and desiring the transmission to the Nizamut Adawlut in future, by the judges of circuit, of the statement proposed by Mr. Shakespear.

PARA. 60. The foregoing details will, I imagine, sufficiently point out the extreme inconvenience, (as far as regards the duty imposed on me of comparing the statements submitted to my office by the magistrates with those furnished by the judges of circuit to the Nizamut Adawlut,) which arises from the judges of circuit submitting statements of the number of crimes committed in a district, which neither correspond in form with any statements in use in the magistrate's office, nor with those transmitted by the courts of circuit generally.

61. There surely can be no difficulty in making these statements so complete as to contain all the information which they profess to give, in one uniform shape, so that a reference may be made to any particular description of crime, without the confusion and perplexity which must attend any attempt to reconcile them in their present form.

62. The abstract in English forwarded quarterly to my office, showing the description and number of crimes committed in the past three months, the number of persons supposed to be concerned in them or apprehended, the amount of property robbed or stolen, and the amount recovered, does not include some crimes for which commitments are sometimes made and persons punished by the courts of circuit, the omission of which is made up by other statements received by me, drawn out in the Persian language: it is desirable, however, for the information of the courts of circuit, that they should comprise every kind of crime usually brought before these courts, and I accordingly take the liberty of submitting a form of statement (*vide* appendix D) which, without being unnecessarily prolix, will, it appears to me, be the means of saving an infinity of trouble to those whose duty it may be to refer to them.

63. I have entered in the statement every class of crimes on which the Government require particular information from my office, and have added such as are usually found in those required from the magistrates by the courts of circuit: should any judge of circuit have occasion to add any crimes not specified, the addition may easily be made in continuation of the list, and any remarks as to the incorrectness of the statement might be noticed at the foot of it, or explanation required from the magistrate before it is transmitted to the superior Court.

64. I beg to recommend that the Nizamut Adawlut may be requested to direct the courts of circuit to adopt this form of statement in future.

D.

Form of quarterly or half-yearly abstract statement of robberies and other crimes ascertained by the police officers or otherwise to have been committed within the zillah of ———— from the ———— of the number of persons known or supposed to have been concerned in crimes, and of the number apprehended, and the computed value of property plundered or stolen, and the amount recovered according to the Darogah's report or otherwise.

Designation of Crimes.	Number of offenders.	Supposed number of persons concerned.	Number of persons apprehended and brought to trial.	Computed value of property plundered.	Computed value of property recovered.
Dacoity, ... With Murder, ...					
„ Torture, ...					
„ Wounding, ...					
Unattended with aggravating circumstances, ...					
Attempt to commit, ...					
On the river, ...					
Burglary, ... With Murder, ...					
„ Wounding, ...					
Exceeding 50 Rupees, ...					
Ditto 10 ditto, ...					
Cattle-stealing, ... With Murder, ...					
„ Wounding, ...					
Exceeding 50 Rupees, ...					
Ditto 10 ditto, ...					
Thefts, ... With Murder, including the murder of children for the sake of their ornaments, ...					
„ Wounding, ...					
Exceeding 50 Rupees, ...					
Ditto 10 ditto, ...					
Affrays, ... Attended with loss of life, ...					
„ with wounding or violent beating, ...					
Simple, ...					
Wilful murder, ...					
Homicide not amounting to murder, ...					
Receiving stolen property, ...					
Arson, ...					
Rape, ...					
Adultery, ...					
Perjury, ...					
Forgery or counterfeiting the coin, ...					

Extract from the Resolutions of Government on the Report of the Superintendent of Police in the Lower Provinces for the year 1822, *under date the 6th November,* 1823.

PARA. 55. The Superintendent, from paragraphs 46 to 64 of his report, has dwelt with considerable length on the difficulty at present experienced in reconciling the statements of crimes furnished by the magistrates to his office, with those submitted to the Nizamut Adawlut by the judges of circuit, and has suggested a specific form to be adopted in the preparation of those statements in future. That form appears well calculated to obviate the inconvenience now felt in comparing the statements; and its adoption will tend to facilitate the detection and explanation of any discrepancy or incorrectness in the information thus afforded to Government.

56. With reference to the paragraphs above referred to, the Nizamut Adawlut will be requested to issue instructions to the several courts of circuit in the western as well as lower provinces, directing them to adopt the statement in future in their reports to that Court. It will of course be the duty of the judges of circuit, at the same time to notice any omission which they may discover in the statement, either from particular cases brought before them, or from any other satisfactory source of information obtained during their visits at the several stations of their respective divisions. The superintendents of police, both in the lower and the western provinces, will likewise be directed to communicate these remarks, with copy of the form, to the several magistrates, for their careful observance.

TO THE SEVERAL COURTS OF CIRCUIT IN THE WESTERN AND LOWER PROVINCES, THE ACTING COMMISSIONER OF CUTTACK, AND COMMISSIONER OF RUNGPORE.

December 17, 1824.

No. 302.

Authorising the judges of circuit to exercise their discretion in concluding the trial of the prisoners whose cases may be completed, and passing sentence on them;

I AM desired by the Court of Nizamut Adawlut to transmit, for your information and guidance, the accompanying extract from the report of the fourth judge of the Calcutta court of circuit, on the conclusion of the first sessions of the present year in that division, and from the remarks and resolutions of the Nizamut Adawlut thereon, bearing this date.

2. You will accordingly consider yourselves competent to adopt the course of proceeding alluded to, under the circumstances therein specified.

postponing a final decision on that part of the trial only, which affects the prisoners for whom further evidence may be required.

Extract of a Report from Mr. R. Walpole, fourth Judge of the Calcutta Court of Circuit, on the conclusion of the first sessions of 1824 *of the division, under date the* 18*th October,* 1824.

PARA. 67. It sometimes happens that trials in which more than one prisoner are arraigned, cannot be concluded during the sessions at which they are commenced, from the absence of witnesses summoned on the part of a few of the prisoners, after the case for the prosecution, the defence of the accused, and all the evidence indicated by the majority of them, have been gone through; and the customary practice on such occasions appears to be to postpone the conclusion of the trial *in toto*, without making any distinction between the prisoners whose cases may have been brought to a close, and those on whose part further evidence may be required.

68. This mode of proceeding appears to me objectionable, inasmuch as in some instances it is attended with hardship and injustice to those prisoners, whose innocence may have been established, or against whom there may not be satisfactory presumption of guilt. The power vested in a judge holding the sessions, of admitting prisoners to bail, is not, in my opinion, sufficient to meet the evil. Bail is not easily obtainable by many persons in such situation

69. In cases such as above described, I think a judge on circuit should be declared competent to exercise his discretion in concluding the trial of prisoners, whose cases may be completed, by calling for a futwa, and passing sentence on them; postponing a final decision on that part of the trial only, which affects the prisoners for whom further evidence may be required.

Extract from the Proceedings of the Court of Nizamut Adawlut, under date the 17*th December,* 1824, *on the subject of the Report of the fourth Judge of the Calcutta Court of Circuit, on the conclusion of the first half-yearly sessions for* 1824, *dated* 18*th October,* 1824.

PARA. 20. The Court are not aware of any objection to the adoption of the measure suggested by the judge of circuit, in cases where there may be several prisoners, and the evidence respecting part of them may be completed; but it may be necessary to postpone the trial to a future sessions for further evidence respecting some of the prisoners; *viz.*, that in such cases "the judge of circuit should be declared competent to exercise his discretion, in concluding the trial of the prisoners whose cases may be completed, and passing sentence on them; postponing a final decision on that part of the trial only, which affects the prisoners for whom further evidence may be required."

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES OF THE WESTERN AND LOWER PROVINCES.

December 31, 1824.

No. 303.

Transmitting, for the information of the magistrates and joint magistrates, and for the future guidance of their police officers, copies of a letter from the acting register of the Nizamut Adawlut, to the acting magistrate of Cuttack, relative to cases of forgery and abortion.

I AM directed by the Court of Nizamut Adawlut to forward to you for your information, and for the future guidance of your police officers, the accompanying copy of the answer that was given by the Nizamut Adawlut, on the 10th December, 1819, to a letter from the acting magistrate of Cuttack, soliciting their instructions whether the darogahs of police and other police officers shall or shall not be allowed to investigate charges of forgery, and of abortion, or of causing the commission of these crimes.

Copy of a Letter to the Acting Magistrate of Zillah Cuttack, addressed by the Acting Register of the Nizamut Adawlut, under date the 10*th December*, 1819.

I am directed by the Court of Nizamut Adawlut to acknowledge the receipt of a letter from you, dated the 9th ultimo, soliciting the instructions of the Court, whether the darogahs of police and other police officers shall or shall not be allowed to investigate charges of forgery, and of abortion, or of causing the commission of these crimes.

2. With respect to forgery or procuring the commission of it, the Court are of opinion that as these offences come clearly within the general description of heinous offences, not excepted by clause 1, Section XIII., Regulation XX. 1817, from the cognizance of the police darogahs on charges or information on oath to that effect before a police darogah, (or other officer of police authorised by the above-mentioned Regulation to exercise in his absence the powers vested in him,) he is bound to proceed to the investigation of such charge in conformity with the general rules prescribed for his guidance.

3. In regard to abortion or procuring it, the Court do not consider these offences to be of a heinous description, unless death ensue; and where this is not the case, they are of opinion that such charges partake of the nature of those specified in clause 1, Section XII., Regulation XX. 1817, and should not therefore be investigated by the darogahs of police or other police officers without the special orders of the magistrate.

4. The Court consider that to allow the darogahs of police indiscriminately to take cognizance of charges of this description, would be liable to much abuse, and they are further of opinion that in general the investigation of them should be conducted by the magistrate rather than by the officers of police.

TO THE SEVERAL COURTS OF CIRCUIT, AND COMMISSIONERS OF CUTTACK AND RUNGPORE.

January 7, 1825.

No. 304.

Caution enjoined as to summoning witnesses unnecessarily.

INSTANCES having been brought to the notice of the Court of Nizamut Adawlut, of persons wholly unacquainted with the facts of the case having been summoned to attend the court of circuit as witnesses for the prosecution, I am directed by the Court to desire that you will issue instructions to the magistrates and joint magistrates in your division, to be careful in taking recognizance from witnesses required to give evidence for the prosecution, in cases committed for trial before the court of circuit, that such recognizance be not taken from persons who appear to have no knowledge of the case, and whose evidence therefore cannot be requisite on the trial before the court of circuit.

TO THE SEVERAL COURTS OF CIRCUIT, AND COMMISSIONER OF CUTTACK.

February 11, 1825.

No. 307.

Furnishing additional rules relative to the proceedings to be held in conducting inquiries in the case of persons supposed to be insane.

THE Court of Nizamut Adawlut having adverted to the rules and orders in force relative to insane persons, as noticed below,* I am directed to transmit, for your information, the following additional instructions, relative to such persons, and to desire that you will communicate the same to the several magistrates and joint magistrates within your jurisdiction.

2. Insane persons, not charged with any criminal offence, who may be sent by the police officers to the magistrates or joint magistrates, in pursuance of the sixth clause, of Section XXX., Regulation XX. 1817, or who may be brought before the magistrates or joint magistrates without the intervention of the police officers, should, after the necessary inquiry to ascertain their actual state of insanity, be disposed of as directed in the Court's Circular Order of 12th June, 1816, and if sent to the insane hospital of the division,

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* 1. Circular Order of the Nizamut Adawlut to the courts of circuit, dated 6th January, 1801, the purport of which, as far as it respects the police officers, has been since enacted in the sixth clause of Section XXX., Regulation XX. 1817.—(*Vide* No. 24, Vol. I. Omitted. For reasons, see Appendix.)

2. Circular Order of ditto to ditto, dated 12th June, 1816, on the establishment of insane hospitals in the several divisions of the courts of circuit.—(*Vide* No. 165, Vol. I.)

3. Circular Order of ditto to ditto, respecting persons convicted before the courts of circuit, and exempted from punishment in consequence of insanity.—(*Vide* No. 233, Vol. I. Omitted. For reasons, see Appendix.)

4. Circular Order of ditto to ditto, dated 21st November, 1823, respecting visits to the insane hospitals by the judges of circuit.—(*Vide* No. 279, Vol. I. Omitted. For reasons, see Appendix.)

5. Rules for the management and control of the native insane hospitals, passed by the Governor General in Council, and printed and circulated by order of Government on the 23rd October, 1818.

will of course be subject to the rules for the management of those hospitals passed by the Governor General in Council, on the 23rd October, 1818, or if detained by the magistrates or joint magistrates for any special reasons, under the discretion given by the Circular Order of the 12th June, 1816, will be included in the explanations in the half-yearly reports of prisoners to be transmitted, through the courts of circuit, to the Nizamut Adawlut, as directed in the order last mentioned. No further instructions, therefore, appear to be required concerning this description of insanes, except that the judges of circuit holding the periodical jail deliveries of the several zillahs and cities, should be careful to ascertain, by inquiry from the surgeon or otherwise, the actual condition and state of mind of all such persons who may be detained by a magistrate or joint magistrate, and issue any orders that may appear requisite and proper, consistently with the object for which they are kept in custody.

3. When persons brought before a magistrate or joint magistrate in a state of alleged insanity, may be charged with having committed any criminal act of a serious nature, such as supposing them not to be insane, would render them on conviction liable to punishment, he should, in the first instance, make a full inquiry to ascertain the fact of their real insanity, and if it be proved to his satisfaction that the person charged is really insane, he should close his proceedings with a statement of his opinion to that effect, and submit them to the court of circuit at the next sessions. On the other hand, if the insanity of the prisoner be not established to the satisfaction of the magistrate or joint magistrate, he should proceed, as in other cases of criminal charges, under the Regulations in force.

4. The judge of circuit to whom the proceedings of a magistrate or joint magistrate may be submitted, in conformity with the above paragraph, after inspecting them and seeing the prisoner or prisoners to whom they refer, will pass such orders as may appear proper in each case, and, if satisfied of the actual insanity of the prisoner, will instruct the magistrate or joint magistrate to keep him in further custody, till restored to a sane state of mind, or send him to the insane hospital of the division, to remain there until his sanity is restored. But in all the cases here referred to, when the prisoner may be charged with the commission of a serious criminal offence, and cannot be immediately brought to trial on account of his insane state of mind, he should, on his discharge from the insane hospital, or on his being pronounced sane by the surgeon of the station at which he may have been kept in custody, be again brought before the magistrate or joint magistrate by whom the charge against him may be properly cognizable, that he may be regularly put upon his trial, and the proceedings on the charge against him be completed by acquittal or conviction before the proper tribunal, whether that of the magistrate or joint magistrate, or of the court of circuit, or Nizamut Adawlut, according to the nature and circumstances of the case.

5. The above instructions suppose the prisoner charged with a criminal offence to be in a state of insanity at the time of his being brought before the magistrate or joint magistrate receiving the charge, so that he cannot be put upon his trial. A similar course of proceeding, the Court observe, would be proper in the event of his having been committed by the magistrate for trial before the court of circuit, and found insane by that court at the time of trying the commitment; in which case the trial must necessarily be postponed until the prisoner be in a state of mind sufficiently sane to admit of his plea and defence.

TO THE SEVERAL COURTS OF CIRCUIT, EXCEPT MOORSHEDABAD, AND COMMISSIONERS OF CUTTACK AND RUNGPORE.

No. 320. *December* 29, 1826.

Transmitting copy of the remarks of the civil surgeon of Moorshedabad on the cure and prevention of cholera morbus.

I AM desired by the Court of Nizamut Adawlut to forward to you the accompanying copy of the remarks of the civil surgeon of city Moorshedabad, relating to the cure and prevention of cholera morbus, with extract (paragraph 3) of a letter written by order of the Court to the secretary to Government in the judicial department on this date.

2. You are requested to forward copies of the above documents to the several magistrates and joint magistrates within your division, for their information and guidance.

Remarks of the Civil Surgeon of the City of Moorshedabad, dated 7th April, 1826.

In consequence of the so numerous, sudden, and fatal attacks of the cholera in December, the whole twelve having been carried off in the space of eight days, and after a very few hours' illness each, and the disease not appearing to me to be at all under the control of any medicine, which either my assistant, Doctor Burt, or myself could think of, I wrote an official letter to the magistrate, strongly recommending, as the only measure in my opinion which could be adopted, at all likely, under existing circumstances, to prove beneficial, that the whole of the patients should immediately be removed from the hospital, which was instantly agreed to; and on the 18th December one-half of the patients were removed to an apartment in the jail, which was kindly given up by the magistrate on the occasion, the site of which is not more than 5 or 600 yards from the insane hospital, and the other half to the Moidapare native hospital, the distance of which is not more than one-third of a mile, and such, I am happy to say, was the salutary effect of the change, that not a single case of cholera afterwards occurred, from the day

of their removal, until their return, a period of two months and ten days; and since their return only one case has occurred, and that only a few days ago, and which patient has since recovered, and who, I ought to mention, was one of those few patients who escaped from a similar attack he had in December. The above is, in my opinion, perhaps one of the strongest proofs of the very circumscribed and limited extent of the infectious nature of the disease; and the benefit experienced on the occasion was fortunately such, that nothing in my opinion ought to prevent its being adopted in all similar cases.

Extract of a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 29th December, 1826.

PARA. 3. The fact alluded to in this paragraph is of so very singular a nature, and its being so desirable an object, that every circumstance relative to the cure and prevention of that formidable disease, the cholera morbus, should be generally known, the Court propose to circulate the remarks of the surgeon on that subject which accompany this report.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES IN THE WESTERN AND LOWER PROVINCES.

December 29, 1826. No. 321.

Forwarding extracts from a letter of the second judge of the Dacca court of circuit and of the register of the Nizamut Adawlut to the secretary to Government in the judicial department, relative to the alleged custom of the inhabitants of villages entertaining the darogah and his followers, whenever he may proceed into the interior.

I AM desired by the Court of Nizamut Adawlut to forward to you the accompanying extracts (paragraph 46) of a letter from the second judge of the Dacca court of circuit, under date the 19th of October last, and (paragraph 26) of a letter written by order of the Court to the Secretary to Government in the Judicial Department on this date, relative to the alleged prevailing custom of the inhabitants of a village entertaining the darogah and his followers on their proceeding into the interior.

Extract of a Letter from the second Judge of the Dacca Court of Circuit to the Register of the Nizamut Adawlut, dated the 19th October, 1826.

PARA. 46. In conclusion, I beg to add, I fully concur in the sentiments expressed by Mr. Morrieson of the benefit that would ensue to the inhabitants of the country from the total abolition of the system of muzkooree peadas; but I should apprehend, that in this case an increase of the regular burkundauzes at every thanna in this division would be absolutely necessary for carrying on with

effect the duties of the police. And if measures could be adopted for putting a stop to the prevailing custom of the inhabitants of a village entertaining the darogah and his numerous followers, whenever he may find it necessary to proceed into the interior, a visit from the police would not be so much dreaded as is the case at present, and to avoid which leads to the concealment of many petty offences. Of these, several instances came before me at the Backergunge session, in cases of simple burglaries, where the prosecutors acknowledged, that to avoid the expense and vexation attending the coming of the police, they had immediately repaired the *nuccubs* without giving information of the robbery.

Extract of a Letter from the Register of the Nizamut Adawlut to the Secretary to Government in the Judicial Department, dated the 29th December, 1826.

PARA. 26. The attention of the several magistrates, will, however, be directed, by a Circular Order, to the subject noticed in the latter part of the former paragraph ; and they will be instructed to adopt such measures as may seem best calculated to effect the abolition of the usage therein adverted to.

TO THE SEVERAL COURTS OF CIRCUIT.

April 6, 1827.

No. 323.

Enjoining that, whenever it may be deemed expedient to bring a prisoner to trial at a station different from that at which he was committed, a representation of the circumstance shall be made to Government, or to the Nizamut Adawlut; and when authority is received, to specify the same in the proceedings.

AN instance having recently occurred, in which a judge of circuit proceeded to try certain cases committed by a joint magistrate at a station different from that at which the joint magistrate resides, in opposition to the provisions of Regulation XVII. 1825, without having obtained the previous sanction of Government or of the Nizamut Adawlut to that effect, as required by Section III., Regulation VIII. 1822, and the whole of the proceedings being vitiated by this irregularity, I am directed, with a view to prevent the possibility of the recurrence of such an irregularity, involving inconveniences of so serious a nature, to request your attention to the provisions of the enactments above cited, and to desire that on every occasion on which you may deem it expedient that a prisoner committed at one station should be brought to trial at another, you will in the first instance represent the circumstance for the consideration and orders of Government, or of the Nizamut Adawlut, and in all cases, where authority for deviating from the usual course of circuit may have been obtained, you will certify the same on the records of your proceedings.

TO THE SEVERAL COURTS OF CIRCUIT, AND COMMISSIONERS OF CUTTACK AND RUNGPORE.

October 3, 1827.

No. 329.

Communicating instructions relative to the employment of muzkooree peons.

THE Court of Nizamut Adawlut direct me to forward to you the accompanying copy of an extract (paragraph 8) of a letter to my address from the Secretary to Government in the Judicial Department, and to request that you will circulate the same to the several magistrates in your division, with instructions that they conform to the mode of proceeding therein pointed out, with regard to the employment of muzkooree peons.

Extract of a Letter from the Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, under date the 30th of August, 1827.

PARA. 8. The Vice-President in Council concurs with the Court that it would not be expedient to issue any general prohibitory orders against the use of muzkooree peons; at the same time, with a view to check as much as possible their employment in cases not strictly provided for in the Regulations, His Lordship in Council conceives that it would be desirable to instruct the magistrates to require the darogahs to report, whenever they may employ persons of that description; stating their reasons for so doing, and by whom their tulubana or diet allowance (which should in no case exceed the rate specified in Clause 7, Section XXVII., Regulation XX. 1817,) may have been defrayed.

TO THE SEVERAL COURTS OF CIRCUIT, AND COMMISSIONERS OF CUTTACK AND RUNGPORE.

October 3, 1827.

No. 331.

Prohibiting the interference of the police officers in petty offences, except according to the provisions of Regulation XX. of 1817, or other Regulation determining their duties.

THE Court of Nizamut Adawlut having reason to apprehend that much unnecessary and vexatious interference is exercised in the mofussil by police officers, and considering it highly desirable that the interference of those officers should be limited to cases in which it may be necessary for the protection of the public interests, I am directed to request that you will instruct the several magistrates within your jurisdiction to prohibit their police officers from interfering with petty offences in any way which is not positively required by Regulation XX. of 1817, or other Regulation enacted for their guidance.

VOL. II.

TO THE SEVERAL COURTS OF CIRCUIT, AND THE COMMISSIONER OF CUTTACK.

February 1, 1828.

No. 1.

Forwarding instructions in addition to those communicated on 23rd January, 1810, on the subject of taking evidence without oath.

I AM desired by the Court of Nizamut Adawlut to forward to you the accompanying copy of instructions, in addition to those communicated to you on the 23rd of January, 1810,* on the subject of taking evidence without oath.

2. You will be pleased to forward a copy of the above instructions to the several magistrates within your division, for their information and guidance.

COPY.

I. By the Circular Order of the Nizamut Adawlut, dated 23rd January, 1810, the judges of circuit and magistrates were instructed to take the depositions of persons examined, however young, on oath or a solemn declaration, provided they appear to understand the nature of an oath.

II. The order does not proceed to say whether a person young in years, not appearing to have a sufficient sense of the nature of an oath, is to be examined without oath or solemn declaration, or not to be examined at all.

III. The Court of Nizamut Adawlut are of opinion that as by the constitution of the criminal courts and the rules prescribed for their guidance, an oath or solemn declaration is indispensable to evidence, no child who has not capacity to be sworn, or to make the solemn declaration allowed, in certain cases, to be substituted for an oath, should be examined in a criminal trial at all.

IV. They direct, therefore, that, in trials before the courts of circuit and the foujdaree courts, where any person young in years may appear not to have a sufficient sense of the nature and obligation of an oath, such person shall not be examined at all; but that, in all such cases, the alleged and apparent age of the person, and the queries and answers which may have led to the conclusion that the person in question is not of capacity to be sworn, shall be fully and exactly recorded upon the proceedings.

V. These instructions are not meant to extend to preliminary inquiries before the police, or to investigations made by magistrates in cases of a nature and magnitude which it may not be within their competence finally to determine. On such

* *Vide* No. 62, Vol I.

occasions the Court is aware of no objection to the examinations of the young persons above described being taken without oath, and placed among the records of the office in which they may be taken, not as evidence in themselves, but to be used as a clue to evidence.

TO THE SEVERAL COURTS OF CIRCUIT AND COMMISSIONERS OF CUTTACK AND RUNGPORE.

No. 4.

June 6, 1828.

Directing that when individuals may be brought to trial for offences committed out of the limits of the British provinces, a copy of the magistrate's letter, applying for the authority of Government, be filed with the proceedings of the case.

I AM desired by the Court of Nizamut Adawlut to direct, that on all future occasions, in addition to the letter of Government conveying authority for bringing individuals to trial, who may be charged with offences committed in places out of the limits of the British provinces, a copy of the letter of the magistrate, applying for such authority, may be also filed with the proceedings in the case.

2. You are requested to issue the requisite instructions to the several magistrates within your jurisdiction, for the purpose of giving effect to the above order.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

No. 5.

July 18, 1828.

Transmitting extract of a letter (para. 7) from the Judicial Secretary, and directing the several magistrates and joint magistrates to furnish circuit judges with all official correspondence they may deem it necessary to require for their information.

I AM desired by the Court of Nizamut Adawlut, to transmit to you the accompanying extract (paragraph 7) of a letter from the Secretary to Government in the Judicial Department, under date the 26th ultimo, and to request you will strictly conform to the instructions therein contained, and furnish circuit judges with all such official correspondence as they may deem it necessary to require for their information.

Extract of a Letter from the Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, dated the 26th June, 1828.

PARA. 7. For the reasons assigned by Mr. Lowther, in the 33rd paragraph of his letter, the Governor General in Council is inclined to think that the magistrates should be instructed to comply with any application from the judges of circuit to inspect the English correspondence of their offices, whether with reference to any particular fouj-

daree case pending before them, or for the general purpose of acquainting themselves with all official matters connected with the welfare and management of the district; and should the Court of Nizamut Adawlut see no material objection, the Governor General in Council would wish the magistrates and courts of circuit to be informed accordingly.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

No 9. *September* 26, 1828.

Cautioning the magistrates and joint magistrates not to confine individuals on a requisition of security for good conduct without proof, warranting the imputation of bad livelihood at the time of apprehension.

THE Court of Nizamut Adawlut, considering the confinement of an individual in jail, on a requisition of security for good conduct, without proof of recent circumstances, warranting the imputation of dishonest livelihood at the time of apprehension, to be a manifest act of injustice, direct me to desire you will carefully abstain from so erroneous a construction of Regulation VIII. of 1818. The courts of circuit will be particularly required ro report any deviation from these orders.

NOTE.—See No. 81, Vol. I., and No. 26, Vol. II.

TO THE SUPERINTENDENTS OF POLICE, AND THE SEVERAL MAGISTRATES.

No. 10. *September* 26, 1828.

Directing the strict attention of the superintendent of police and of the magistrates to the provisions of clause 1, Section VII., Regulation VI. of 1819, in the application of the funds of the ferry establishment.

IT having been brought to the knowledge of the Nizamut Adawlut, that large sums realized from the proceeds of the ferry establishment, have been appropriated to objects unconnected therewith, instead of being applied to the provision of safe and commodious boats, and the general improvement of ferries, they direct me to request your strict observance of the provisions of Clause 1, Section VII., Regulation VI. of 1819, previous to any application of the funds of the institution to the distinct purposes enumerated in the second clause of the above-mentioned enactment.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

March 13, 1829.

No. 17.

Transmitting extracts from Mr. Gorton's Report of the half-yearly sessions for the Benares division, and from a letter from the Court to the Judicial Secretary to Government, and directing special care to be taken to prevent police officers from abusing their powers.

I AM desired by the Court of Nizamut Adawlut to transmit to you, for your information and guidance, the accompanying extracts, paragraph 43, of Mr. Gorton's Report on the conclusion of the 1st half-yearly sessions of 1828 for the districts comprising the Benares division, and paragraph 14, of a letter written to the Secretary to Government in the Judicial Department, by order of the Court, on this date; and to request you will strictly caution your police officers, with a view to prevent any abuse, on their part, of the discretion with which they are vested.

Extract of a Letter from Mr. Gorton, late 2nd Judge of the Benares Court of Circuit, to the Register of the Nizamut Adawlut, dated the 31*st December*, 1828.

43. It appears to me desirable, and my object in bringing the subject forward, is to prevent the evil (and it is one of no ordinary nature, for a man, on whose daily labour his family, perhaps, look for support, to be taken up and thrown into jail on bare suspicion, or on the oath of a person, perhaps, inimical to him,) which an indiscriminate exercise of authority by the thannadars in apprehending persons charged with or suspected of crimes, may occasion. The attention of the magistrates of those districts, at least where the disproportion of acquittals is great, should be directed to the subject. I cannot suppose that it is intended as an undeviating principle, that persons are to be apprehended and thrown into jail on the bare *oath or suspicion* of a prosecutor, or because the thannadar suspects them, or that the magistrates are not vested with the power to control and restrict the thannadars in this respect; or if the Regulations do not allow the magistrates such, I think they should be invested with it. I am, however, of opinion, that nothing further is necessary than that the magistrate should point out to the thannadars all instances where they should not have sent the suspected persons to the sudder station, but should have admitted them to bail (if necessary), and have awaited their instructions. I do not mean to say that thannadars do not sometimes adopt this measure, or that the magistrates do not notice instances of persons being apprehended and sent in on insufficient grounds; still I cannot but help thinking that much good may be effected, and the subject is of sufficient importance, if the attention of the magistrates be specially directed to it.

Extract of a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 13th of March, 1829.

14. The Court fully recognize the expediency of requiring from the police officers the greatest caution in the exercise of their authority to apprehend persons on suspicion of crime, as noticed in the 43rd paragraph of the judge's communication. The great disproportion of convictions to acquittals, observable in all the districts comprised in the present report, but more particularly in Azimghur and Jaunpore, strongly proves the necessity of a diligent supervision on the part of the magistrates, with a view to prevent any abuse of the discretion with which their police officers are vested. A copy of this paragraph of Mr. Gorton's letter will be circulated to the several magistrates, for their information and guidance.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

No. 19. *April* 3, 1829.

Transmitting extract from a letter from the Judicial Secretary requesting a strict adherence to the rule therein quoted from Regulation III. 1812.

I AM desired by the Court of Nizamut Adawlut to transmit to you the accompanying extract, paragraphs 4, 5 and 6, of a letter from the Secretary to Government in the Judicial Department, under date the 10th ultimo, and to request your strict adherence to the rule cited in the 4th paragraph, with a view to prevent the indiscriminate summons or apprehension of persons charged with petty offences.

Extract of a Letter from the Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, dated the 10th of March, 1829.

4. The practice adopted by the magistrate of Tipperah, as stated in his letter, of summoning only one defendant in the first instance, and postponing the summons of others until he has taken the evidence for the prosecution, is not strictly conformable to the Regulations; nor is it, in the judgment of the Vice-President in Council, so well calculated to secure the object intended, as an adherence to the rule prescribed in Clause 6, Section II., Regulation III. 1812, which directs, that "With the view of further restraining the institution of prosecutions for adultery, fornication, calumny, abusive language, "trespasses, and assault, which ordinarily prove to be unfounded, "misrepresented, or greatly exaggerated, the magistrates are hereby "strictly prohibited from issuing any process on these, as well as "charges for more heinous offences, without previously examining the

"prosecutor as to the specific facts of the case, and satisfying themselves that adequate grounds exist for proceeding against the accused party. In cases, likewise, in which the magistrate shall see grounds to distrust the truth of a charge, he shall, previously to issuing process against the accused, summon the witnesses named by the prosecutor, or as many of them as he may judge proper, and examine them as to their knowledge of the facts and circumstances which are the subject of the complaint."

5. It appears, indeed, to the Vice-President in Council, extremely desirable that the attention of the magistrates and joint magistrates should be specially directed to an observance of that rule; and I am desired to request that the Court of Nizamut Adawlut will issue a Circular Order on the subject, with a view to prevent, as far as practicable, the indiscriminate summons or apprehension of persons charged with petty offences.

6. The Vice-President in Council trusts that a due attention on the part of the magistrates and joint magistrates, to that rule, and a proper exercise of the authority vested in them, for the punishment of unfounded and vexatious complaints, will, in a great measure, obviate the evils pointed out by Mr. Ross, in your letter before noticed.

TO THE SEVERAL COMMISSIONERS OF REVENUE AND CIRCUIT.

April 24, 1829.

No. 21.

Transmitting extract of a letter from the late third judge of the Bareilly court of circuit, and interdicting the practice of transacting public business in private residences.

I AM desired, by the Court of Nizamut Adawlut to forward to you the accompanying copy of an extract (paragraph 33,) from a letter to my address, from the late third Judge of the Bareilly court of circuit, dated the 27th of February last, and to desire that you will refrain from the objectionable practice therein adverted to, and strictly interdict it on the part of those subject to your authority.

Extract of a Letter from the Third Judge of the Bareilly Court of Circuit, to the Register of the Nizamut Adawlut, dated the 27th of February, 1829.

33. I beg leave to mention a practice which appears to me to be highly objectionable, and which is but too prevalent among the public officers, judicial and revenue, namely, that of transacting their public business in their private residences, and not attending regularly the public cutcherries. It is quite needless for me to dwell on the numerous evils which result from this practice: a

magistrate or collector can never be as accessible to the natives in his own house as in the public cutcherry ; and unless there are fixed hours for transacting business in the public cutcherries, petitioners, &c. &c., will be either deterred from attending, or constantly subject to much inconvenience and expense. It would, perhaps, be useless to fix any certain number of hours, (as, I believe, was done many years ago,) during which magistrates and collectors should attend, as the time must, of course, depend on the quantity of business to be transacted ; but the attention of the commissioners of revenue and circuit might be directed to the subject.

TO THE SEVERAL COMMISSIONERS OF CIRCUIT.

No. 24. *May* 8, 1829.

Directing that in all cases of acquittal, the commissioner of circuit state whether the commitment have been made on sufficient grounds, or otherwise.

THE Court of Nizamut Adawlut deeming it desirable that they should be made acquainted with every instance in which a magistrate may have evinced want of judgment in making over prisoners to take their trial before your court, I am directed to request your attention, in future, to the following rule.

In all cases of acquittal you are in future required to specify in that column of the statement of cases of acquittal appropriated to remarks, whether you deem the commitment to have been made on sufficient grounds and after due inquiry into the case by the magistrate, or whether you consider the commitment to have been erroneous or defective ; and you will, at the same time, forward a copy of the magistrate's order of commitment for the consideration and orders of this Court.

NOTE.—See No. 168, Vol. II.

TO THE SEVERAL COMMISSIONERS OF CIRCUIT.

No. 26. *May* 15, 1829.

Transmitting extracts of letters from the Register of the Nizamut Adawlut to the Judicial Secretary, dated respectively Sept. 26th last, and May 15th,

I AM desired by the Court of Nizamut Adawlut to forward to you, for your information and guidance, the accompanying extract (paragraph 28,) from a letter written by me, by order of the Court of Nizamut Adawlut, to the Secretary to Government in the Judicial Department, under date the 26th September last, and of paragraph 5 of a letter this day addressed by me to the same authority, connected with the report furnished by the late 3rd judge of the Patna court of circuit, on the conclusion of the 1st sessions of

that division for the year 1827, together with an extract from a letter written to the late Benares court of circuit, on the 31st August of that year, containing the construction given by the Court of Regulation VIII. of 1818.

1829, together with extract from a letter to the late Benares court of circuit, under date the 31st August, 1827, containing the Court's Construction of Regulation VIII. of 1818, and desiring that the magistrates be instructed to conform thereto.

2. You are requested to furnish the several magistrates in your division with a copy of the former extract, and to require them to conform thereto.

Extract from a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 26th of September, 1828.

28. The laws which regulate the demands of security from persons of suspicious character are susceptible of considerable modification and improvement, and there is too much reason to believe that Mr. Elliott's report presents no exaggerated picture of the evils experienced from the present system of procedure in such cases. The confinement of an individual in jail, on a requisition of security for good conduct, without proof of recent circumstances warranting the imputation of dishonest livelihood at the time of apprehension, is a manifest act of injustice. Regulation VIII. 1818, could never had been intended to authorise a practice of this nature; and the magistrates will be accordingly directed to abstain from so erroneous a construction of the enactment, while the court of circuit will be particularly required to report any deviation from these orders to the Nizamut Adawlut, with a view to its being brought to the serious notice of Government. The attention of His Lordship in Council will, no doubt, be directed to the proposition of the circuit judge for restricting the powers of the magistrates to the requisition of security from persons of dangerous character alone, whose restraint is necessary for the public welfare. It must, however, be observed, that by Clause 2, Section VIII., Regulation VIII., 1818, a circuit judge is empowered, on the prisoner's petitioning, to call for the proceedings, and annul, modify, or confirm the order of the magistrate, according to the circumstances of the case.

Extract from a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 15th of May, 1829.

5. On the subject noticed in the 33rd paragraph of your letter, I am directed to state the opinion of the Court, that the period for which the magistrates are now authorised to detain persons in default of giving security, is not too long, supposing due control to be exercised over their proceedings; but the Court are, at the same time, of opinion that the orders of the magistrate, in such cases, should be at all times open to revision. A construction to this effect was given by the Nizamut Adawlut on the 31st of August, 1827, with reference to the powers, in this respect, possessed by the courts of circuit at the sudder station. This construction will be circulated to the several commissioners of circuit, with an intimation that they are equally competent to exercise the same powers.

Extract from a Letter from the Register of the Nizamut Adawlut, to the Benares Court of Circuit, dated the 31st of August, 1827.

FIFTHLY.—Section IV., Regulation IV., 1825, should not be construed to preclude an individual in confinement for security, under the provisions of that rule, from preferring an appeal to the court of circuit at the sudder station, when no order may have been passed on his case by the judge of circuit at the sessions of jail delivery preceding; and the judges of the court of the sudder station are competent to pass such orders thereon, under the general regulations relative to appeals, as may appear in their judgment to be just and equitable.

NOTE.—See No. 9, Vol. II.

TO THE SEVERAL COMMISSIONERS OF CIRCUIT.

No. 27. *June* 5, 1829.

Transmitting extract from the resolutions of Government in the Territorial Department, with certain instructions in regard to the duty of the commissioners of circuit to reside in the interior of their districts, and successively visit every quarter.

AGREEABLY to the instructions received in a letter from the Secretary to Government in the Judicial Department, dated the 17th of March last, I am desired by the Court of Nizamut Adawlut to forward to you, for your information and guidance, the accompanying copy of an extract, (paragraph 22,) from the resolutions of Government in the Territorial Department, under date the 17th of February last.

Extract from the Resolutions of Government in the Territorial Department, under date the 17th of February, 1829.

PARA. 22. But it may be proper on this occasion to observe, that in regard to the latter, it is the expectation and desire of Government, that they shall not only hold the sessions with regularity, but that they shall generally spend such part of the temperate season of the year, as may not be occupied with the jail delivery in the interior of the several districts under their authority, so that they may successively visit every quarter; and that they should be prepared at all times to proceed to any part of their jurisdiction, when circumstances may appear to require their presence.

TO THE SEVERAL COMMISSIONERS OF CIRCUIT.

No. 28. *June* 5, 1829.

Transmitting copy of a circular letter to the several magistrates and joint magistrates, with regard to a discrepancy in the English and Persian version of Clause 9, Section XIX., Regulation XX., 1827.

I AM desired by the Court of Nizamut Adawlut to forward to you, for your information, the accompanying copy of a circular letter, written by their order, on this date, to the several magistrates and joint magistrates, on the subject of a discrepancy in the English and Persian version of Clause 9, Section XIX., Regulation XX., 1827, relative to the use of handcuffs.

Copy of a Circular Letter to the Several Magistrates and Joint Magistrates, dated the 5th June, 1829.

I am desired by the Court of Nizamut Adawlut to forward to you the accompanying extract (paragraph 37) from Mr. Patton's report on the conclusion of the 2nd sessions of 1828 for the Moorshedabad division, and paragraph 17 of a letter this day written to Government by order

of the Court, in order that you may adopt the necessary measures to correct the error therein noticed.

Extract from a Letter from the late 4th Judge of the Moorshedabad Court of Circuit, to the Register of the Nizamut Adawlut, dated the 10th of April, 1829.

37. In the course of the trial of a thanna mohurir for mal-treatment of a European British subject, who had been falsely charged with murder, I had occasion to refer to the Persian translation of Regulation XX., 1817, when an important error in the translation of Clause 9, Section XIX., appeared. In the English version, the darogah is declared to be competent to use handcuffs for the purpose of forwarding heinous criminals with safety to the magistrate's court; whereas in the translation the words *lazim khahudbood* are used, which makes it incumbent on him to do so with respect to any person he may be pleased to consider a heinous criminal; thus affording a pretext for severity and an opportunity for abuse and extortion on the part of a native police officer, of which he is glad at all times to avail himself. I beg leave to suggest that the error should be corrected.

Extract from a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 5th of June, 1829.

17. With reference to the discrepancy in the English and Persian version of Clause 9, Section XIX., Regulation XX., 1817, relative to the use of handcuffs, I am desired to state that the magistrates will be instructed by a Circular Order to rectify the error in the thanna and other copies of the Persian Regulations, and to take care that the discretion vested in the police darogahs is not abused.

NOTE.—See No. 41, Vol. II.

TO THE SEVERAL COMMISSIONERS OF CIRCUIT.

July 24, 1829. No. 30.

Transmitting copy of a letter from the Court to the commissioner of circuit for the 13th division, with regard to the provisions of Clauses 2 and 3, Section III., Regulation III., 1821; and desiring that the purport may be communicated to the several magistrates.

THE Court of Nizamut Adawlut having reason to believe that much misconception exists on the subject of the provisions contained in Clauses 2 and 3, Section III., Regulation III., 1821, I am desired to forward to you the accompanying copy of a letter relating thereto, this day written by order of the Court to the commissioner of circuit for the 13th Division, and to request that you will communicate the purport of the same to the several magistrates within your jurisdiction.

Copy of a Letter from the Register of the Nizamut Adawlut, to the Commissioner of Circuit, 13th Division.

The Court of Nizamut Adawlut have had before them your letter, dated the 22nd May last, with its enclosure from the magistrate of zillah Rungpore, explanatory of his reasons for employing the law officer attached to his court in the manner alluded to in your letter of the 30th of April.

In reply, I am desired to communicate to you the following remarks, for the information and guidance of Mr. Smith, to whom you are requested to furnish a copy of the same.

Independently of the inexpediency of referring every description of criminal cases to the law officers for investigation and report, as unnecessarily occupying valuable time, which would be much more profitably employed in the transaction of civil business, the Court observe that the practice is illegal, and not warranted by the rules contained in Clauses 2 and 3, Section III., Regulation III., 1821.

The latter clause declares the law officers to be authorised to exercise the same powers as those vested in the assistants to the magistrates by Section XX., Regulation IX. 1807, and those powers, as declared in the concluding part of the same clause, are confined to the trial and decision of trivial cases, and cannot be construed as conveying to such law officers authority to investigate and report upon any description of cases which they are not ultimately competent to decide.

Were this practice generally adopted, the Court further observe that it might be the occasion of much obvious impropriety, and that the same law officer, who investigated and reported upon a case, might frequently be called upon to furnish a *futwa* as to the guilt or innocence of the prisoner on his trial before the court of circuit.

It may of course occasionally (though the Court would suppose rarely) happen that a case apparently trivial may, on investigation, turn out to be of a serious nature, in which event it would be necessary for the law officer to whom the case had been sent for trial and decision, to return it to the magistrate, unaccompanied, however, by any opinion as to the merits of the case ; and the Court are, upon the whole, clearly of opinion, that Mr. Smith's view of the existing rules on this subject is erroneous, and that the magistrates are authorised to refer such cases only to their law officers as are of a trivial nature, and admit of their being finally disposed of by those officers.

TO THE SEVERAL COMMISSIONERS OF CIRCUIT.

July 24, 1829.

No. 32.

Transmitting extract from a letter of the register of the Court to the Judicial Secretary to Government, enjoining the magistrates to record their reasons for putting prisoners in irons before trial, whenever they resort to this measure.

I AM desired by the Court of Nizamut Adawlut to forward to you herewith the accompanying extract (para. 2) from a letter this day written by their order to the Secretary to Government in the Judicial Department, submitting Mr. Newnham's report on the termination of the first sessions of 1829 for Mynpooree, including the joint magistracy of Etawa ; and to request that you will furnish the several magistrates and joint magistrates in your division with a copy of the same for their information and future guidance.

Extract from a Letter from the Register of the Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated the 24th of July, 1829.

PARA. 2. It will be observed that in the fourth and fifth paragraphs of his letter of the first-mentioned date, Mr. Newnham charges the

late officiating joint magistrate with having unnecessarily subjected the prisoners committed by him to the indignity of being heavily ironed. On inspecting the calendar, however, the charges adduced appear to have been, with one exception, of a very serious character; and though they were not proved on trial, it by no means follows that the officiating joint magistrate had not ample grounds for presuming the prisoners to be guilty, or that he did not consider the imposition of fetters to be necessary to their safe custody. The Court, however, being of opinion that this measure of severity should never be resorted to except in extreme cases or where the prisoner is of a character so dangerous as to render the imposition of fetters absolutely necessary to his safe custody, the several magistrates will be enjoined, through the commissioners of circuit, to record on their proceedings of commitment their reasons for resorting to this measure, whenever they may deem it necessary to place fetters on a prisoner previous to his trial.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

October 9, 1829. No. 40.

Forwarding copy of a letter to the magistrate of Nuddea, and directing that the magistrates depute an officer of their own courts to receive charge of any individual apprehended in Calcutta at their request.

I AM desired by the Court of Nizamut Adawlut to forward, for your information and guidance, the accompanying copy of a letter this day written by order of the Court to the magistrate of Nuddea, and to request your particular attention to the concluding paragraph of that communication.

Copy of a Letter from the Register of the of Nizamut Adawlut to the Magistrate of Nuddea, dated the 9th of October, 1829.

It having been represented to the Nizamut Adawlut that an individual named W. H. Tydd, who has a suit in this court, and whose release from arrest under civil process was lately ordered by virtue of a writ of Habeas Corpus, (the civil arrest under such circumstances being deemed illegal,) has been since apprehended by the magistrate of the town of Calcutta previously to his actual liberation, and detained in custody on your application on a charge of a criminal nature, and the Court considering his detention in custody at the presidency on account of any act which he may have committed in your district, to be highly irregular and unwarrantable, direct that you will immediately adopt such measures as you may deem best calculated to insure his speedy removal to your district for the purpose of defending himself from any accusation which may have been there preferred against him; and the Court further direct that in the event of your not being able to adopt any mea-

sure calculated to effect this purpose, you will without loss of time recall your application for the arrest of the individual in question, requesting the magistrates of the town of Calcutta to restore him to the place in which he was found prior to his apprehension.

I am also directed to instruct you, whenever you may have occasion to solicit the interference of the Calcutta magistrate in aid of your own process, invariably to depute an officer of your own court for the purpose of receiving charge of the individual apprehended, and of undertaking the responsibility of securing his appearance at your station, without exposing such individual to the hardship of unnecessary detention at the presidency.

NOTE.—See Nos. 82 and 185, Vol. III., and No. 49, Vol. IV.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

October 9, 1829.

No. 41.

Transmitting a letter from the magistrate of Sylhet, and the reply of the register of the Court, with regard to the discrepancy between the English and Persian versions of Clause 9, Section XIX., Regulation XX, 1817.

IN continuation of my letter to your address under date the 5th June last*, I am now desired by the Court of Nizamut Adawlut to forward to you, for your information and guidance, the accompanying copy of a letter to my address from the magistrate of Sylhet, dated the 9th ultimo, together with copy of a letter this day written in reply by order of the Court.

Copy of a Letter from the Magistrate of Zillah Sylhet to the Register of the Court of Nizamut Adawlut, under date the 9th September, 1829.

I have the honor to acknowledge the receipt of your letter, under date the 5th of June last, forwarding an extract from a letter from the late fourth judge of the Moorshedabad court of circuit, dated the 10th September, 1829, and calling on me to correct the discrepancy between the English and Persian versions of part of Regulation XX. 1817. The fourth judge states, in the English version the darogah is declared to be *competent* to use handcuffs for the purpose of forwarding heinous criminals with safety to the magistrate's court; whereas in the translation, the words "*lazim khahud bood*" are used, which makes it *incumbent* on him to do so, with respect to any person he may be pleased to consider a heinous criminal.

The judges of your Court have not ordered what Persian words are to be inserted instead of "*lazim khahud bood*" in the Regulation; and it being left to the magistrate to use his own discretion in the translation, I consider it objectionable, as there may be in each zillah a different word inserted to explain the intent and spirit of the

* *Vide* No. 28, Vol. II.

Regulation. I shall, therefore, be obliged by your submitting to the Court my desire that I be supplied with the Persian words required to be substituted for "*lazim khahud bood,*" that there may be uniformity in each district of the wording of the intent of the Regulation. Literally, I should say the words *ikhtiaree darogah ast* would be the proper translation for *competent;* but then this would be extremely objectionable when an improper feeling existed, and would give the same power as the words *lazim khahud bood,* as being left entirely to his own discretion.

Copy of a letter from the Register of the Nizamut Adawlut to the Magistrate of Sylhet, under date 9th October, 1829.

The Court of Nizamut Adawlut have had before them your letter dated the 9th ultimo, regarding the correction of the discrepancy between the English and Persian versions of Clause 9, Section XIX., Regulation XX. 1817, which are noticed in the Court's circular letter, dated the 5th of June last.

In reply, I am desired to acquaint you that the Court see no objection to your suggested version of the passage alluded to.

The Court desire that you will, in communicating this to your police officers, take particular care to call their attention at the same time to the clause succeeding that granting the permission to use handcuffs in cases of necessity, which clause declares that they shall be held strictly accountable for any severity further than what may be essentially requisite for securing the persons of prisoners.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

December 4, 1829.

No. 43.

Forwarding copies of special instructions in the native languages, for the guidance of the police officers in cases of Suttee, with English translations thereof.

REGULATION XVII. of 1829, declaring the practice of burning or burying alive the widows of Hindus illegal and punishable by the criminal courts, having been enacted by the Governor General in Council, I am directed by the Nizamut Adawlut to transmit to you a copy of special instructions in the Persian and Bengallee languages,* with a translation thereof in English, prepared by the desire of, and since approved by, Government, for the guidance of your police officers.

2. You are accordingly desired to furnish a copy of the Regulation in the native languages, and of the special instructions above referred to, to the whole of the police officers under your authority

3. In the event of any personal interference on your part on the occasion of any Suttee, you will be guided by the same rules established for the guidance of your police officers.

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* Hindustanee for Bareilly, Benares, and Patna.

4. You are desired to take an early opportunity of impressing personally on your police officers the propriety of circumspection in using any forcible means to prevent any Suttee, more particularly during the early period of its suppression, when great allowance is to be made for the feelings and prejudices of the people.

5. With the exception of aggravated cases, in which recourse may have been had to stupefaction or violence, you are enjoined to abstain from using irons, handcuffs, or other unnecessary duress, towards any persons apprehended under these rules; and in any case deemed not bailable, the prisoners shall be invariably confined in the civil jail, and never in the criminal jail.

6. You are desired, as a temporary measure, on the occasion of any Suttee having been prevented, or of its having taken place subsequent to the receipt of these orders, to make a short report thereof to the Court.

7. You are directed to consider the Circular Orders under dates the 29th of April, 1813, 4th of January, 1815, and any others on the same subject that may have issued, * as cancelled from this date, and you will adopt immediate measures for withdrawing them from all the thannas within your jurisdiction.

8. Translations of the instructions to the police officers will be prepared as soon as practicable, and sent to you by a future opportunity.

Draft of Instructions to be issued by Magistrates to the Police Darogahs.

Whereas Regulation XVII. of 1829, for the purpose of abolishing the practice of burning or burying alive the widows of Hindus, declaring such practice illegal and punishable by the criminal courts, has been enacted by the Right Honorable the Governor General in Council, copies of the same in the Persian and Hindustanee languages are accordingly transmitted for your information.

In giving effect to the rules of that Regulation, you will be guided by the following instructions.

1. The third Section of the Regulation declaring all zemindars, talookdars, or other proprietors of land, whether malgoozaree or lakhiraj, all sudder farmers and under-renters of land of every description, all dependant talookdars, all naibs and other local agents, all native officers employed in the collection of the revenue and rents of lands on the part of Government, or the court of wards, and all munduls and head-men of villages,—responsible for the immediate communication to the officers of the nearest police station of any intended sacrifice of the nature above described, you are consequently directed to report to the magistrate any omission, or

* See Nos. 123, 142, 184, 221, 225, 235, 244, 256, 257, 268, 278, 298, 299, 311, 317 and 332, Vol. I., omitted, *vide* Appendix.

unnecessary delay on their part, in furnishing you with the promptest information on the subject.

2. On the receipt of information of an intended Suttee, you will proceed to the spot without delay, unless there be special cause to prevent your going personally; in which event you will immediately depute your mohurir or jemadar. You will also immediately report to the magistrate the cause which may have prevented your going in person; and in any instance in which the sacrifice may have commenced, or have been completed, prior to the arrival of the police, a minute report of the circumstances which may have operated to prevent their early arrival, must be submitted to the magistrate.

3. In giving effect to the second clause of the third Section, you are directed to employ every means of dissuasion and remonstrance, to endeavour to associate with yourself any respectable Hindus in persuading the parties concerned to desist from the sacrifice, and you will use all patience and forbearance in the exercise of the duty prescribed.

4. You are required to use all care and discretion in giving effect to these orders, and you will in each case be held bound to show that every means of mildness was resorted to, before recourse was had to any exercise of authority.

5. You will in no case use any duress towards any persons apprehended under these rules, but will treat them with every indulgence, and, in sending them in to the magistrate, will allow them every facility not inconsistent with their safe custody.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

January 8, 1830. No. 45.

Prohibiting sudder ameens from taking the examination of any prisoner in any case which he may not be competent finally to decide, and which may not have been sent to him for decision, without reference to any superior authority.

An instance having come to the knowledge of the Court in which a sudder ameen who took the examination of a prisoner, subsequently, in his capacity of law officer, delivered a futwa in the case of the same prisoner, and the Court deeming it highly objectionable that these incompatible duties should be performed by the same individual, I am directed to desire that you will peremptorily prohibit the Moulvee, sudder ameen, and all other sudder ameens attached to your court, from taking the deposition of a prisoner in any case which he may not be competent finally to dispose of, and which may not have been sent to him for decision, without reference to any superior authority.

Note.—See No. 236, Vol. II.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

February 19, 1830.

No. 47.

Prohibiting the confinement of prisoners in the house of the nazir, until they furnish security.

I AM desired by the Court of Nizamut Adawlut, to forward to you the accompanying extract (paragraph 93) from a letter dated the 15th of December last, from Mr. C. Smith, reporting the conclusion of the 1st Sessions of 1828 for the zillahs comprised within the then existing limits of the division.

2. You are directed to be particularly cautious to avoid the objectionable practice alluded to in the extract in question.

Extract of a Letter from the late fourth Judge of the Dacca Court of Circuit, addressed to the Register of the Nizamut Adawlut, under date the 15th December, 1829.

PARA. 93. I think it necessary to call the attention of the Court to the very objectionable practice prevailing in the zillahs and city of keeping prisoners in the nazir's house for many days, nay, in some instances, for months, until security be furnished; as I am not aware that it is recognised by any rule or order, and finding the judges on each circuit prohibiting the same, either by letter or roobukaree to the magistrate, without much attention being paid thereto, I submit the propriety of a general order being issued to those officers, requiring them to adhere strictly to any injunctions they may receive on that subject. I am perfectly aware that those persons who are sent in with a chelan, or despatch, from the thannas, are necessarily put under the nazir until orders are passed upon the report which usually accompanies; but this is a business which does not occupy more than the following morning, or at most a day or two.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

February 26, 1830.

No. 48.

Forwarding the Court's construction of Section V., Regulation IX. 1793, and Section V., Regulation VI. 1803,

I AM desired by the Court of Nizamut Adawlut to forward to you, for your information and guidance, the accompanying extract (paragraph 7) of a letter written by their order, on this date, to the Secretary to Government in the Judicial Department, containing their construction of Section V., Regulation IX. 1793, and Section V., Regulation VI. 1803.

Extract of a Letter from the Register of the Court of Nizamut Adawlut, to the Secretary to Government in the Judicial Department, dated 26th February, 1830.

relating to the commitment of persons charged with crimes and misdemeanors.

PARA. 7. In Section V., Regulation IX. 1793, and Section V., Regulation VI. 1803, it is declared, "if it appears to a magistrate that the crime charged was actually committed, and that there are grounds for suspecting the prisoner to have been concerned in the perpetration of it," the magistrate shall commit for trial. The wording of the enactment admits of some latitude of construction, and is calculated to produce considerable inconvenience, by leaving undefined the degree of evidence sufficient to put the prisoner on his trial. Instead of the words, "and that there are grounds for suspecting the prisoner to have been concerned, &c.," the following might, in the Court's opinion, with advantage have been substituted; "and that there are probable grounds of convicting the prisoner of having been concerned, &c." But the Court do not deem it necessary that any new legislative provision should be enacted, as they consider a liberal construction of the existing rules to be sufficient. A circular letter will, this day, be issued for the information and guidance of the several commissioners of circuit and magistrates, containing the Court's construction of the rule in question, and other instructions, a copy of which will be submitted, in due course, for the information of Government. The Court agree in the opinion expressed by Mr. Jackson, that the testimony of a single witness, if there be no apparent reason to discredit it, is sufficient for commitment. But, at the same time, it is incumbent on a magistrate, previous to putting a prisoner on trial, on solitary testimony of this description, to satisfy his own mind as to the credibility of the witness, by taking evidence to any points, calculated to establish or disprove his testimony, by whomsoever such evidence may be indicated. With reference to the cases adverted to by Mr. Jackson in the latter part of the 13th paragraph of his letter, in which the prisoners released had been committed on the testimony of a single witness, the Court presume that the witness was not considered entitled to credit, and on this supposition the acquittal of the prisoners may be satisfactorily accounted for.*

* See Regulation VIII. 1830.

TO THE SEVERAL COMMISSIONERS OF CIRCUIT.

No. 52.

April 16, 1830.

Forwarding copy of a letter from the Judicial Secretary, dated the 30th March, 1830, and desiring them to report the cases of any decrepid prisoners confined in the criminal jails, whose release they may think would not be dangerous to society.

I AM desired by the Court of Nizamut Adawlut to forward to you the accompanying copy of a letter from the Secretary to Government in the Judicial Department, to my address, under date the 30th ultimo.

2. In conformity with the wish therein expressed, you are desired to furnish your sentiments on the points specified to the Court of Nizamut Adawlut. The reports of decrepid prisoners whom you recommend for liberation, must be accompanied with medical certificates from the surgeon of the station, and must contain a specification of the nature of the offence for which they are in confinement, as well as the period during which they have been, and still are to be, imprisoned.

Copy of a Letter from the Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, under date the 30th March, 1830.

The Governor General in Council having, during his late tour, observed in the jails in the districts visited by him, that in some instances prisoners appeared to be detained in confinement though suffering under blindness and decrepitude, such as to incapacitate them, if released, from the further commission of crime, I am directed by the Right Honorable the Governor General in Council to request that the Court of Nizamut Adawlut will ascertain, through the commissioners of circuit, whether in the jails of their respective divisions there be any convicts labouring under incurable infirmities, whose liberation would not be attended with mischief or danger, and that the Court will submit the reports of the commissioners with their own sentiments as to the propriety or otherwise of the clemency of Government being extended to such convicts.

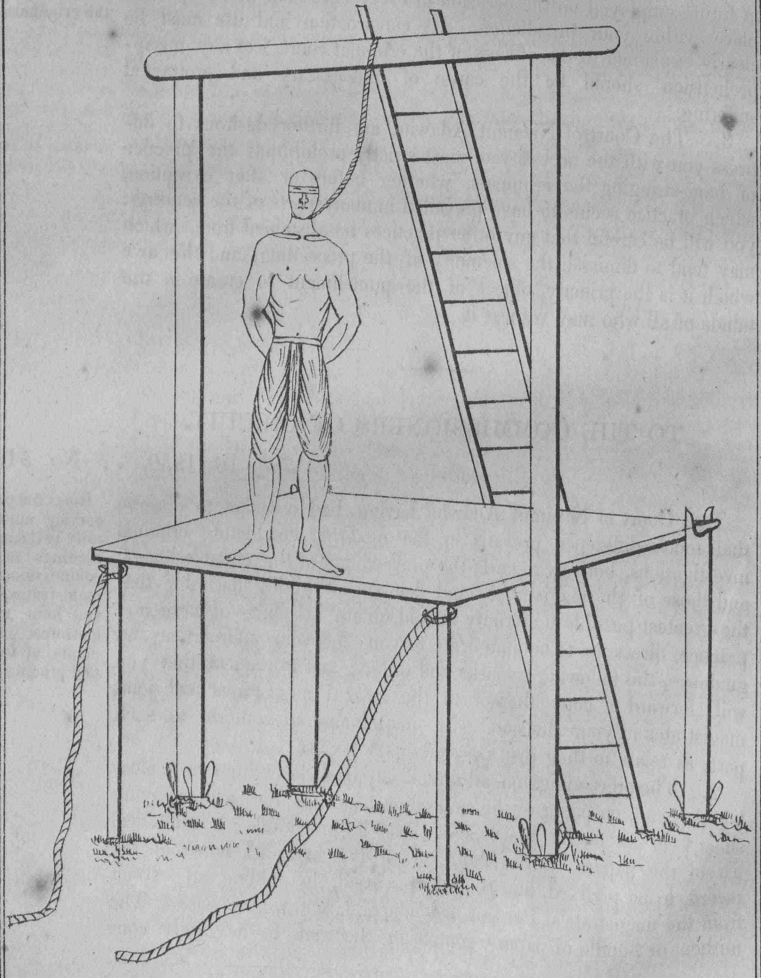
2. The Governor General in Council would also wish the commissioners to include in their reports the cases of any convicts who may have been confined for long periods, especially in cases of affray, either on account of religious disputes, or on account of claims to the possession of land, which, in the judgment of the commissioners, may suggest the propriety of a mitigated sentence or remission of further imprisonment.

3. It is not improbable that the necessity of example, at the time when many offences of the above nature were committed, especially in the western provinces, may have demanded a more severe sentence than the present state of the country requires, and that justice has been sufficiently satisfied by the term of imprisonment which the offenders have already undergone.

NOTE.—See No. 218, Vol. II.

PLAN OF A DROP FOR EXECUTING CRIMINALS.

See Cir. Ord. Niz. Adt. 23rd April 1830.



TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

April 23, 1830. No. 53.

Forwarding a sketch of a drop for the execution of malefactors, and prohibiting the practice of ham-stringing the criminals.

I AM directed by the Court of Nizamut Adawlut to forward to you the accompanying sketch of a drop for the execution of malefactors.

2. You are requested to order one to be constructed after this pattern, with as little delay as possible, and to be careful that it be in future employed on the occasion of every execution that may take place within your jurisdiction. Its construction and use must be clearly explained to the officers of the criminal court, lest any misapprehension should be the cause of unnecessary and protracted suffering.

3. The Court of Nizamut Adawlut are further desirous to impress you with the necessity of most strictly prohibiting the practice of ham-stringing the criminals, whether before or after execution, which practice seems to have prevailed in many parts of the country: you will be careful that any other practices be abstained from, which may tend to diminish the solemnity of the proceeding, and the awe which it is the primary object of the punishment to create in the minds of all who may witness it.

TO THE COMMISSIONERS OF CIRCUIT.

July 16, 1830. No. 54.

Rules for preserving uniformity in the proceedings of commissioners, magistrates, and joint magistrates, in points of form and practice.

THE Court of Nizamut Adawlut having had occasion to observe that much difference prevails in the mode of conducting criminal investigations, both as regards the proceedings of the commissioners, and those of the magistrates, and deeming it highly desirable that the greatest possible uniformity should obtain in points of form and practice, direct me to communicate to you, for your information and guidance, the following remarks and orders, and to request that you will forward a copy thereof to the several magistrates and joint magistrates in your division, with instructions to conform to such parts as relate to their own proceedings.*

2. The proceedings on all criminal trials to be written in a clear legible hand, on paper of the same dimensions as the accompanying sheet,† or as nearly that size as may be procurable; a numerical list of the papers, corresponding with the marginal notes of the record, to be prefixed, and the whole closed, by adding an extract from the magistrate's Persian calendar relating to the case. The nuthee, or bundle of papers, composing the trial, to be firmly con-

* The particular attention of commissioners and sessions judges has been called to this Circular. *Vide* No. 100, Vol. II.

† The original was written on country paper 12½ by 9½ inches.

nected by a string or tape, passed through the papers on the right, hand side towards the top, the ends thereof to be united with wax and the seal of the court to be impressed thereon.

3. The papers forming the record of trial to be entered thereon, in the same order as the proceedings are held ; a marginal note being made on each separate paper, descriptive of its nature, and corresponding with the numerical list above-mentioned. The record to be headed,* *mutatis mutandis*, as set forth in the enclosed form, including a transcript in English and Persian of the charge on which the accused may be put on his trial, as directed in the final order of commitment.

4. In cases of murder, wounding, or other personal injury, a description of the weapon, or other instrument, said to have been used in the perpetration of the act, should be here recorded ; including, where such particulars may be at all available, to fix the intent of the prisoner, the length of the instrument, its general form if not one in common use, its thickness, and weight.

5. In cases of robbery, or theft, a description should be entered of any articles laid before the court, as forming part of the plundered or stolen property ; specifying the number attached to each article, and where, and under what circumstances, it may have been found.

6. Then will follow, the prosecutor's deposition, the prisoner's plea of "guilty" or "not guilty" to the charge,† (which should always be explicitly stated to him in the words prefixed to the record,) and then the evidence on the part of the prosecution, in the course of which, if any papers borne on the magistrate's proceedings should form part of the proof, as written confessions, inquests, declaration of a dying person, and the like ; such papers should be entered on the record of trial in original,‡ and evidence taken thereto ; attested copies of them being substituted in their stead on the magistrate's proceedings. Translations in Persian should also be made and annexed to the originals, where the latter may be in any other language.§

7. In cases of murder, or wounding, endangering life, when the body, or wound, may have been inspected by the civil surgeon, (as it should be in all practicable cases,) the deposition of the surgeon should be invariably taken on oath, instead of merely requiring, as is too frequently the practice at present, a written report, addressed to the magistrate or judge holding the trial :‖ and it may be here observed, generally, that no report or paper should be placed on the

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* See No. 108, Vol. II.

† See Nos. 129 and 135, Vol. II.

‡ See Circular Order 3rd June, 1831, No. 84 Vol. II., explaining that in all trials referred to or called for, by the Court of Nizamut Adawlut, the original documents here alluded to, are to be transferred from the original record of the proceedings of the commissioner on the trial, to the copy submitted to the Nizamut Adawlut, copies thereof being placed on the original record.

§ Translations are now dispensed with. *Vide* Nos. 26 and 94, Vol. III.

‖ For special reason for taking the surgeon's deposition on oath, see No. 42, Vol. III.

record, or referred to in *proof* of the charge, unless the same be established by evidence.

8. The prisoner will then be put on his defence* and evidence examined on his behalf. After which, the *futwa* of the law officer, (which should always bear his seal, signature, and official designation,) being called for and taken, the judge will record his opinion, and such sentence or order as the case may require.

9. In trials referred to the Nizamut Adawlut, the letter accompanying the reference, should commence in this form—"I transmit "herewith, to be laid before the Nizamut Adawlut, the proceedings "on the trial noted in the margin, held at the station of ————on "the————."

10. The marginal note should contain the particulars, and be entered according to the form annexed.†

Court of Commissioner of Circuit for the —— Division.

Zillah ————

Trial, No. —— of the Calendar for the —— sessions of 183—.

——

Government, ... Prosecutor.

versus

1. *Bindrabun Das*, aged 36 years, son of *Heeranund.*
2. *Hurdyal*, aged 50 years, son of *Govind Pershad.*

} Prisoners.

——

Charge, ... *Murder.*

Futwa, Kissas, Seasut, as the case may be.

11. The body of the letter of reference should contain a brief recapitulation of the circumstances stated by the prosecutor, of the evidence adduced in support of the charge, and of the defence. The letter should conclude by stating the commissioner's concurrence with, or dissent from, the *futwa;* together with a distinct expression of the commissioner's opinion as to the guilt or innocence of the prisoner; and if the former, the specific crime which, in his judgment, has been established against the prisoner.‡

12. The Court deem it scarcely necessary to add, as an important part of your duty in holding a criminal trial, that you should carefuly notice and record on your proceedings, any contradiction in the testimony of the witnesses, either in their evidence on the trial, or as compared with their former depositions before the magistrate. You will also consider it your duty to bring to the notice of the Court, any irregularities which may have marked the conduct of the proceedings, in the preliminary investigation, whether of the magistrate or his police officers.

13. With regard to the magistrate's proceedings, the Court desire me to communicate to you their opinion as to the proper construction

* See No. 129, Vol. III.

† See No. 135, Vol. II., paras. 3 and 4, also No. 148, *Ibid.*

‡ The sessions judges in the Lower Provinces are also to state what punishment they consider adequate to the offence. See Nos. 28, 41 and 130, Vol. III. In the Western Provinces this is dispensed with, see Nos. 153 and 181, Vol. III.

which should be put upon Section V., Regulation IX. 1793, and the corresponding enactments.* The rule in question should be understood, as empowering the magistrate to exercise a sound discretion, and not as intending to require commitment on bare suspicion, where the evidence does not afford probable ground for conviction on trial. If conviction appear improbable, the Court observe, the commitment would not only be useless, and unnecessarily harassing to the accused and the witnesses in the case, but objectionable, as precluding conviction and punishment on evidence which might be subsequently obtained.†

14. Entertaining this view, the Court desire that you will instruct the magistrates within your division, that they should consider it their duty to summon and examine, before commitment, every witness whose evidence may be indicated as material to elucidate the true facts of the case, and not confine themselves, as is frequently the practice at present, to taking such evidence only as they may think legally sufficient to form ground for commitment.

15. The Court have, in many instances, found reason to be dissatisfied with the loose manner in which the magistrates prepare their charges in cases committed for trial; so much so, that it has been sometimes difficult to ascertain with precision the offence for which the prisoner has been put on his trial.‡

16. With a view to remedy this evil, the Court desire that the magistrates will carefully record, at the conclusion of the *roobukaree* containing the order of commitment, the precise charge on which they commit the prisoner; and that such charge be entered in English and Persian, on a separate paper annexed to the said *roobukaree*, bearing the magistrate's official signature at full length, and the date of commitment. The magistrate should be directed to take especial care that the proper Persian word is used to designate the offence charged. Thus, in a charge of murder, the Persian term used should be "*Kutl-umd*;" and in a charge of manslaughter, the term "*Kutl-shibeh-umd*:" and where there is any doubt as to whether the accused is guilty of a higher or lower grade of an offence of the same character, the commitment should be made for the higher grade. Thus, if it be doubtful, from the evidence before a magistrate, whether the offence amounts to murder, or only to culpable homicide, the commitment should be for murder. On the other hand, where a doubt exists as to whether a commitment should be made for knowingly receiving plundered property,

* Section V., Regulation IX. 1793, was extended to Benares by Section IV., Regulation XVI. 1795. The corresponding rules for the Ceded Provinces are contained in Section V., Regulation V. 1803, and were extended to the Conquered Provinces by Section X., Regulation VIII. 1805.

† See Regulation VIII. 1830.

‡ The special attention of commissioners and sessions judges has been directed to this and the two following paras., and how they were to proceed defined. See No. 135, Vol. II.

or for the actual robbery, the prisoner should be committed on both counts.*

17. The reason of this caution, I am desired to add, is, that, in the former case, a conviction of a minor offence may be had on a commitment for a graver offence of the same character, but that the converse of the proposition does not hold good. In the latter case you will observe that the acts for which the prisoner is to be tried, are distinct, and of a separate character.

18. In the event of a commitment being made under special instructions of the commissioner, either of his own authority, as in cases of perjury, or in modification of the original order of commitment by the magistrate ;† or in cases of commitment for forgery and perjury by order of a *zillah* judge, or other authority empowered to commit in such cases, the same should be noticed on the proceedings.

19. The Court direct me to add, with reference to the power vested in the commissioners of circuit of annulling a magistrate's commitment, that such power should be exercised with great caution, and a report thereof be submitted in each instance for the information of this Court.‡

20. The Court having also had many late occasions to observe, that their Circular Orders specially requiring that the examinations of all prisoners be made in the presence of the magistrate, are not sufficiently attended to, I am directed to desire that you will call on the magistrates in your division to conform themselves strictly to those orders ; and in no case to certify,§ or otherwise to authenticate any paper purporting to be a confession, which may not have been made on a personal examination by the magistrate himself. And more effectually to provide against the objectionable course which has frequently obtained of late of allowing the examination of prisoners to be taken in the *serishta* in the magistrate's absence, you are desired to instruct the magistrates, in all cases of confessions before them, to certify the same in the following words, "I hereby "certify that this confession of ———— was made by the said "————, and taken down in writing, and attested by the sub- "scribing witnesses, before me, and in my presence, on the ———, "between the hours of ———— ; that, to the best of my belief, the "confession was voluntary, and that no interference, directly or "indirectly, on the part of any person likely to influence or intimi- "date the prisoner, was permitted."

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* *In all cases* where stolen or plundered property may have been found, a second count is to be inserted charging the prisoner with knowingly receiving plundered or stolen property (as the case may be). See No. 98, Vol II.

† A session judge cannot direct a magistrate when he has committed a prisoner for a minor offence, to alter the same to a graver.

‡ See No. 111, Vol. II.

§ For how magistrates are to certify examinations and deposition, see No. 220, Vol. II., paragraph 6.

21. The Court further desire that the magistrates be instructed to direct their police officers to certify confessions made before them in the same manner.

22. On all trials held by you, you are desired, in examining subscribing witnesses to confessions, to be particular in ascertaining from them that there has been no deviation from these rules, and in case of omission by a police officer, that you take suitable notice thereof, and that you report any transgressions in this respect on the part of a magistrate to the Nizamut Adawlut.

23. I am also directed to desire that in all cases of trials held in any way out of the ordinary course of law, you will record on the proceedings of the trial the original documents authorising the course adopted, (substituting attested copies in their place in the magistrate's *nuthee*, if they should have been taken therefrom,) and that you will invariably notice the same in your letter accompanying the proceedings on the trial, if referred to the Nizamut Adawlut.

24. I am, in conclusion, directed to observe that many delays have lately been experienced in the transmission of trials under reference to this Court; that no valid excuse can possibly exist for the unnecessary procrastination of their dispatch; and that the Court expect that you will so regulate your own time, and that of your officers, that no cause of dissatisfaction on this score occur hereafter.

25. You will be pleased to report to the Court the date on which you may receive these instructions, and will require a similar report from the several magistrates and joint magistrates in your division.

NOTE.—See Nos. 11 and 73, Vol. I.

FORM of the Record of a Criminal Trial, held before a Commissioner of Circuit, prescribed by paragraphs 2 and 3 of the Circular Order of the Nizamut Adawlut, dated the 16th of July, 1830.

N. B. The original was written on country paper 12½ by 9½ inches.

فهرست نمبرواري كاغذات مقدمه نمبر فلان كلندره ودر فلان سنه فلان ضلع فلان

۱		
اظهار		مدعي
۳		
جواب	هردیال	مدعا علیه
۵		
زبان بندي	فلان	گواه ایضا
۷		
زبان بندي	فلان	گواه صورتحال
۹		
صورت حال		
۱۱		
ترجمهٔ آن بزبان فارسي		
۱۳		
زبان بندي	فلان	گواه ایضا
۱۵		
ترجمهٔ آن بزبان فارسي		
۱۷		
ترجمهٔ آن بزبان فارسي		

۲		
جواب	بندرا بن داس	مدعا علیه
۴		
زبان بندي	فلان	گواه ماجرا
۶		
زبان بندي	فلان	گواه ایضا
۸		
زبان بندي	فلان	گواه ایضا
۱۰		
زبان بندي		داکتر صاحب
۱۲		
زبان بندي	فلان	گواه اقرار مفصل
۱۴		
اقرار مفصل	بندرابن داس	مدعاعلیه
۱۶		
اقرار مفصل	هردیال	مدعا علیه
۱۸		
زبان بندي	فلان	گواه اقرار فوجداري

۱۹

زبان بندي ۲۱ فلان گواه ايضا

ترجمهٔ آن بزبان فارسي ۲۳

ترجمهٔ آن بزبان فارسي ۲۵

زبان بندي ۲۷ فلان گواه ايضا

زبان بندي ۲۹ فلان گواه ايضا

عذر ۳۱ هردیال مدعا علیه

زبان بندي ۳۳ فلان گواه ايضا

زبان بندي ۳۵ فلان گواه جرح هر دو مدعا عليهما

جواب مولوي عدالت ۳۷

جواب آن ۳۹

کلندره

۲۰

اقرار فوجداري ۲۲ بندرا بن داس مدعی علیه

اقرار فوجداري ۲۴ هردیال مدعي عليه

زبان بندي ۲۶ فلان گواه گرفتاري بندرابن مدعی علیه

زبان بندي ۲۸ فلان گواه برآمد و شناخت مال

عذر ۳۰ بندرابن مدعاعلیه

زبان بندي ۳۲ فلان گواه جرح بندرابن مدعاعلیه

زبان بندي ۳۴ فلان گواه جرح هردیال مدعا علیه

سوال بر مولوي عدالت ۳۶

سوال ثاني ۳۸

حکم

Court of the Commissioner of Circuit for the Division.
Jail Delivery for the Zillah [City or Joint Magistracy] of for the Sessions of 183 , held at
No. of Calendar.

GOVERNMENT ..... *Prosecutor.*

1 *BINDRABUN DOSS, son of Huranund, aged* 36 *years.*
2 *HURDYAL, son of Govind Pershad, aged* 50 *years.* } *Prisoners.*

Charge—Murder.

L. S.

A. B.
Commissioner.

(True Copy.)

درینجا درصورتیکه مثلمقدمه بیک روز با تمام نرسد ذکر تواریخ مثل هرروزه درج یابد

رویداد تجویز عدالت دایر وسایرعلاقهٔ قسمت فلان مقام فلان باجلاس صاحب کمشنر روبروی فلان مولوي عدالت‌ضلع فلان مقدمه نمبر فلان کلندرهٔ ضلع فلان و در فلان سنه فلان واقع تاریخ فلان

حاکم .... مدعي
۱ بندرابن داس پسر هرانند عمرسي و شش ساله .... مدعا علیه
۲ هردیال پسر گوبند پرشاد عمرپنجاه ساله ..... مدعاعلیه

جرم قتل عمد

تاریخ وقوع جرم

بتاریخ فلان ماه فلان مطابق فلان سنه فلان روز فلان عند الطلب عمالهٔ فوجداري طرفین را مع مال و اله ضرب حسب تفصیل درین محکمه حاضر آورد

بیان آلهٔ ضرب

درینجانام حربه بتعیین طول وعرض و مقدار وزن آن و ازکجا برآمده مع حالات برآمدن اندراج یابد مثلا نمبر ۱ یک ضرب شلاق آهن بند طول چهاردست عرض بطرف شلاق مدوربرابرحلقه انگشت سبابه و ابهام و بطرف زیرشلاق مذکور تا یکدست آهن بند مدوربرابرحلقهٔ دو انگشت و آلهٔ ضرب مذکورخون الوده از چهپر بندرابن مدعاعلیه برآمد *

بیان مال

درینجا تعین مال بقید نمبر و نشان اندراج یابد و ذکر اینهم ضرور که فلان مال از کجا بر آمده مع حالات مفصل بر آمدن آن *

مثلا نمبر ۲ یک فرد دهوتي کهنه خون آلوده از خانهٔ هردیال مدعا علیه حسب نشان دهي او بر آمده *

مثلا نمبر ۳ یک جفت کڑا نقره بدیوار خانه فلان مدعا علیه مدفون بود حسب نشان دهي او برآمده بوزن پنج بهری است *

درصورتیکه وکیل سرکار مدعي شود نقل عرضي او مندرج گردد و در صورت مدعی شدن اشخاص دیگر اظهار شان بحلف یا از روي حلفنامه گرفته شود از مدعا علیه استفسار جرمیکه بالا اندراج یافته نموده شود ....

ایضا .....

۱ اظهار فلان مدعي

۲ جواب بدرابن مدعاعلیه

۳ جواب هردیال مدعاعلیه

در صورتیکه درمیان اظهار مفصلي خواه فوجداري خواه دایر و سایري چیزي فرق واقع شود صاحب کمشنر سبب آن از گواه استفسار نموده درج سازند	۴ زبان‌بندي فلان گواه ماجرا
ایضا	۵ زبان بندي فلان گواه ایضا
ایضا	۶ زبان بندي فلان گواه ایضا
بعد اداي شهادت فرد تحقیقات لاش حرف بحرف بگواه شنوانیده شد و گواه آنرا شنیده تصدیق نمود و دستخط خود نشان داد	۷ زبان‌بندي فلان گواه صورتحال
ایضا	۸ زبان بندي فلان گواه ایضا
در صورت ثبوت صورتحال اصل آن داخل روبداد شود و نقلش بدستخط و مهر صاحب کمشنر بجاي اصل در نتهي فوجداري داشته آید	۹ اصل‌صورتحال تحقیقات لاش
اظهار ڈاکتر صاحب بنده لاش یا بسبب غیرحاضریش اظهار ڈاکتر هندوستاني حلفا گرفته شود و نیز ترجمهٔ آن بزبان فارسي اگر اصل بزبان انگریزي خواه بزبان دیگر باشد طیار شده شامل روبداد گردد	۱۰ زبان بندي ڈاکتر صاحب خواه ڈاکتر هندوستاني
ترجمهٔ آن بزبان فارسي	۱۱ ترجمهٔ آن بزبان فارسی
اظهار گواه بتصریح اینکه بکدام وقت و بکدام صورت و بکدام مضمون اقرار مدعاعلیه	۱۲ زبانبندي فلان گواه اقرار مفصلي

شده است بعده اصل اقرار مدعا علیه بگواه مذکور لفظ بلفظ شنوانیده و آنرا شنیده تصدیق نمود و دستخط خود نشان داد

ایضا .... ۱۳ زبان بندي فلان گواه ایضا

بعد تصدیق اقرار مفصلي اسامیان اصل اقرار انها مع ترجمهٔ آن بزبان فارسي شامل مثل ۱۴ اصل اقرار مفصلي بندرابن مدعاعلیه

گردد و نقل اقرار بدستخط و مهر صاحب کمشنر بجاي اصل درمثل فوجداري داشته شود

ایضا .... ۱۵ ترجمهٔ آن بزبان فارسي

ایضا .... ۱۶ اصل اقرار مفصلي هردیال مدعا علیه

ایضا .... ۱۷ ترجمهٔ آن بزبان فارسي

مطابق شرح مضمون نمبر ۱۲ و ۱۳ .... ۱۸ زبان بندي فلان گواه اقرار فوجداري

ایضا .... ۱۹ زبان بندي فلان گواه ایضا

مطابق شرح مضمون نمبر ۱۴ .... ۲۰ اصل اقرار فوجداري بندرابن مدعاعلیه

ایضا .... ۲۱ ترجمهٔ آن بزبان فارسي

ایضا .... ۲۲ اصل اقرار فوجداري هردیال مدعاعلیه

ایضا .... ۲۳ ترجمهٔ آن بزبان فارسي

مطابق شرح مضمون نمبر ۴ و ۵ و ۶ .... ۳۴ زبان‌بندي فلان گواه گرفتاري مدعاعليه

ايضا .... ۳۵ زبان بندي فلان گواه ايضا

ايضا .... ۳۶ زبانبندي فلان‌گواه برآمد و شناخت‌مال

ايضا .... ۳۷ زبان بندي فلان گواه ايضا

بعد اتمام زبان بندي گواهان دعوي مدعي عذرات مدعا عليهم اندراج يابد و اقرار مفصل و فوجداري بانها لفظ بلفظ شنوانيده شود و استفسار اين معني هم گردد که انهابلا خوف و مهربابي اقرارمذکوره نويسانيده بودند يا نه و درصورتيکه اسامیان خواهان گرفتن اظهار گواهان نامیده خود شوند گرفته شود

ايضا .... ۳۹ عذر هردپال مدعا عليه

مطابق شرح مضمون نمبر۴ و ۵ و ۶ .... ۳۰ زبان بندي فلان گواه جرح بندرابن مدعاعليه

ايضا .... ۳۱ زبان بندي فلان‌گواه ايضا

ايضا .... ۳۲ زبان بندي فلان گواه جرح هردپال مدعاعليه

ایضا .... ۳۳ زبان بندي فلان گواه ایضا

سوال برمولوي عدالت دعوي خون برمدعي علیهما با یکي ازان ثابت شده یانه .... ۳۴ سوال برمولوي عدالت

بزیر فتوی دستخط و مهر مع لقب خود .... ۳۵ جواب آن

سوال ثاني برمدعي علیهما چه سزا لازم مي‌آید .... ۳۶ سوال ثاني

مطابق شرح و مضمون نمبر ۳۵ .... ۳۷ جواب آن

صاحب کمشنر حکمیکه مقتضاي راي خود دانند ارقام فرمایند و نیز باتمام آن تاریخ درج نمایند .... ۳۸ حکم صاحب کمشنر

NOTE.—The marginal notes should in manuscripts be inserted at the outside of the pages for convenience of reference, as the Marginal Notes are printed in this volume.

کلندر یعنی فهرست اهل جرایمیکه حسب الحکم صاحب مجشتریت ضلع فلان براي تجویزصاحب کمشنر دایروسایرعلاقهٔ قسمت فلان بابت دورفلان سنهٔ فلان سپرده شد

نمبر مقدمه	نمبر اسامي	نام مدعي ومدعاعليه بقيدولايت	خلاصهٔ کیفیت نالش وتاریخ وقوع جرم	تاریخ گرفتارآمدن مدعاعليه	نام گواهان مدعي								خلاصه تحقیقات مقدمه و وجه تفویض وتاریخ آن	نام گواهان مدعاعليه	
					گواهان رویت	گواهان گرفتاري مدعاعليه	گواهان صورتحال	گواهان اقرار مفصل	گواهان اقرار فوجداري	گواهان برآمدوشناخت مال	گواهان واقف حال مقدمه	گواهان بابت بدمعاشي		گواه جرح	گواهان نیک معاشي
فلان		مدعي وکیل سرکار بنام بندرابن پسرهرانند هردیال پسر گوبندپرشاد	بعلت قتل عمد واقعهٔ تاریخ فلان	فلان	فلان	فلان	فلان	فلان	فلان	فلان	فلان	فلان	مدعا علیهما ازروي گواهي گواهان وروداد مقدمهبتاریخ فلان بعدالت دایروسایر تفویض شدند	فلان	فلان

TO THE MAGISTRATES AND JOINT MAGISTRATES.

No. 55. *July* 23, 1830.

Calling attention to the rules prescribed in Section XVI., Regulation XX. 1817, for search of plundered property.

THE Court of Nizamut Adawlut having reason to believe that the rules prescribed in Section XVI., Regulation XX. of 1817, for the search of plundered property, are not sufficiently attended to by the police officers, direct me to call your particular attention to the subject, and to desire that you will take proper notice of any instances in which the police *darogahs* and other officers shall deviate from the rules laid down for their guidance, in the above-mentioned section.

TO THE SEVERAL COMMISSIONERS OF CIRCUIT, MAGISTRATES, AND JOINT MAGISTRATES.

No. 57. *September* 3, 1830.

Forwarding Advocate General's opinion of the power of a magistrate to take cognizance of complaints against European British subjects.

I AM desired by the Court of Nizamut Adawlut to forward to you, for your information, the accompanying copy of a letter written by their order on this date to the commissioner of the 15th division, together with a copy of the communication therein alluded to, from Mr. Advocate General Pearson, containing his opinion respecting the power of a magistrate to take cognizance of complaints against European British subjects.

Copy of a Letter from the Officiating Register of the Nizamut Adawlut, to the Commissioner of Circuit for the 15th Division, under date the 3rd September, 1830.

I am directed by the Court of Nizamut Adawlut to acknowledge the receipt of your letter of the 21st June last, requesting information—1st, as to the power of a magistrate, under the provisions of Section CV., Statute 53, George III., to take cognizance of complaints preferred by a native against an European British subject, not amounting to felony, and on conviction, to punish by fine to the extent of 500 rupees, whether the magistrate has, or has not, taken the oath of qualification as a justice of peace; and 2ndly, whether, in the event of his having such powers, his proceedings in such cases are open to revision by a commissioner of circuit, or whether the party wishing to prefer an appeal must be referred to the Supreme Court.

2. In reply, I am directed by the Court to transmit to you, for your information and guidance, the accompanying copy of a letter from Mr. Advocate General Pearson, under date 26th ultimo, received in reply to my letter of the 30th July last, with which a copy of your letter, herein acknowledged, was submitted for his opinion.

Copy of a Letter from the Advocate General to the Officiating Register of the Nizamut Adawlut, under date the 26th August, 1830.

In answer to the letter which you addressed to me by the desire of the Nizamut Adawlut, I beg to state my opinion that a magistrate, who may not have taken the oath of qualification as a justice of the peace, may take cognizance of complaints against European British subjects, to the extent specified in George III., 53, but I do not think that the proceedings in such cases are open to review by the court of the commissioners. No appeal is given by the statute to any court in the *mofussil*, but only a writ of certiorari to the court of Oyer and Terminer at the presidency; Statute LIII., George III., Clause 155, Section CV.

TO THE COMMISSIONERS OF CIRCUIT, MAGISTRATES AND JOINT MAGISTRATES.

December 10, 1830. No. 66.

Transmitting an extract from the Court's proceedings, declaratory of the right of zemindars to establish *hauts* on their own lands.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information and guidance, the accompanying extract from the proceedings of the Court, of this date, declaratory of the right of Zemindars, and other proprietors of land, to establish *hauts* or fairs on their own lands.

Extract from the Proceedings of the Nizamut Adawlut, dated 10th December, 1830.

The Court decided on an appeal from an order of the commissioner of circuit of the 15th Division, that zemindars and other proprietors of land have a right to establish *hauts* or fairs on their own lands, and to hold them on any day that they think proper; and that it is not competent to the magistrates to prohibit the establishment of a *haut* or fair, or to fix the day on which it may be held, on the plea of its interfering with the right of a neighbouring *haut*-holder, or on any other ground.

TO THE COMMISSIONERS OF CIRCUIT.

No. 67. *December* 17, 1830.

Directing the commissioners of circuit to insert in their warrants, the period of imprisonment in *words*, as well as in *figures*.

I AM directed by the Court of Nizamut Adawlut to transmit to you the accompanying extract, paragraph 40, from a letter of the Honorable the Court of Directors, dated the 14th April last, and to desire that you will invariably insert in the warrants you may hereafter issue, the period of imprisonment to which the prisoners thereby affected may be sentenced, in *words*, as well as in *figures*; at the same time noticing, on the margin of the warrant, the prisoner's name, and the period of imprisonment in figures.

Extract from a Letter from the Hon'ble the Court of Directors, dated the 14th April, 1830.

PARA. 40. We regret that you have not informed us of the result of the inquiry ordered by the Nizamut Adawlut, with a view to ascertain whether any blame attached to the magistrates of Benares, or to the jailor, on the occasion referred to. This is not the first instance we have seen of carelessness in your magistrates, or their native officers, in detaining men in prison beyond the term of their sentence. But the chief blame is to be laid to the Nizamut Adawlut, whose duty it is to take care that such arrangements should be made as to render a mistake of this sort very unlikely to occur. When they stated to you that, considering all things, it was a matter of surprise that these occurrences did not happen more frequently, rather than that they happened at all, you should have pointed out to them that it was their duty to adopt proper measures to prevent them. We remark that that most obvious precaution of writing the period of the sentence in words, as well as in figures, and noticing the time in figures, with the name of the prisoner, in the margin of the warrant, was unaccountably neglected. We are happy to learn that you paid the man who was illegally detained in prison 100 rupees by way of compensation.

TO THE MAGISTRATES AND JOINT MAGISTRATES.

December 17, 1830. No 68.

Directing the magistrates to submit reports on all occasions when it may be necessary to call for the assistance of the military.

In pursuance of the orders of the Honorable the Court of Directors and of Government, I am directed by the Court of Nizamut Adawlut to desire that on all occasions when you may find it necessary to call for the assistance of the military to preserve the peace of your district, you will immediately make a full and distinct report of all the circumstances of the case, for the information of the Court and of Government. This report you will be pleased to submit through the commissioner of circuit, that he may forward it to this Court with his own sentiments in each case.

Transmitting extracts of a letter from the Honorable the Court of Directors, relating to the precautions to be adopted to prevent the jails from being overcrowded.

2. I am further directed to transmit to you, for your information and future guidance, the accompanying extract, paragraphs 41, 42 and 43, from a letter of the Honorable the Court of Directors, dated the 14th April, 1830, on the subject of the precautions to be adopted to prevent the jails from being over-crowded.

Extract of a Letter from the Hon'ble the Court of Directors, dated the 14th April, 1830.

Para. 41. The orders issued by the Nizamut Adawlut on this occasion, appear to us to have been perfectly proper, and we entirely approve the Circular Letter* which you directed to be written to the magistrates, authorising and enjoining them, whenever the number of prisoners may be greater than can be conveniently accommodated in the proper jail, to hire, without previous application to Government, any suitable buildings which may be procurable, or to accommodate a portion of the prisoners in tents or boats, or to incur such expense as may be necessary to provide, in any other manner, for the temporary shelter and safe custody of the prisoners.

42. Other instances, similar to that now before us, having come to our notice, we desire you will apprise the magistrates, through the Nizamut Adawlut, that they have engaged our particular attention.

43. A magistrate cannot be justified in crowding together a greater number of prisoners than the place of confinement will conveniently hold. His duty, in regard to prisoners in his charge, is to detain them in custody according to law, under the sentences of the courts, or (in cases of persons not sentenced) under such discretion as is vested in him by the Regulations. Every pain he inflicts on those persons beyond that which is required by law, is illegal punishment. A magistrate, who, by crowding men together in prisons, till he inflicts diseases and death on them, will not be exculpated by pleading unhealthy seasons, pressure of business, great numbers of prisoners under

* See No. 285, Vol. I.

his charge, delay in correspondence, or any of those excuses which are usually resorted to on such occasions, and perhaps accompanied by assertions of kind feelings for the prisoners, and some testimonial of humanity and attention in the care of the jails.

NOTE.—By Circular Order No. 7, VOL. III. a magistrate calling out the military is to report both to the Sessions Judge and the Superintendent of Police.

TO THE COMMISSIONERS OF CIRCUIT.

No. 78.

February 4, 1831.

Prescribing the manner in which the *futwas* of conviction and acquittal, which accompany the jail delivery statements, should be transmitted.

I AM directed by the Court of Nizamut Adawlut to request that in transmitting to the Court with your jail delivery statements the copies of the *futwas* of conviction and acquittal, you will cause them to be filed in two separate parcels, in the order in which the prisoners affected by them stand on the statements of prisoners punished without reference and acquitted; and that you will cause to be written on the face of each *futwa* a memorandum in the Persian language, showing the names of the prisoners, the numbers of the prisoners as they stood in the magistrate's calender, and their number in the respective statements of convictions and acquittals according to the accompanying forms.

2. Should any of the prisoners in a case be convicted and others acquitted you will be pleased to file a copy of the *futwa* with each parcel.

FORM OF THE MEMORANDUM FOR FUTWAS OF CONVICTION.

نمبر فلان کلندرہ ضلع فلان — نمبر اثامیان در فہرست
بابت دورہ فلان سنہ فلان — اثامیان کہ بموجب حکم
صاحب دورہ سزا یافتند
نام اثامیان — نمبر فلان

FORM OF THE MEMORANDUM FOR FUTWAS OF ACQUITTAL.

نمبر فلان کلندرہ ضلع فلان — نمبر اثامیان در فہرست
بابت دورہ فلان سنہ فلان — اثامیان کہ بموجب حکم
صاحب دورہ رہائی یافتند
نام اثامیان — نمبر فلان

NOTE.—See No. 25, Vol. III.

TO THE MAGISTRATES AND JOINT MAGISTRATES.

May 13, 1831. No. 82.

I AM directed by the Court of Nizamut Adalwut to transmit to you, for your information and future guidance, the accompanying extract (paragraphs 5 and 11) from a letter this day addressed to the Deputy Secretary to Government in the Judicial Department, by their order.

When insane persons are sent by magistrates to the Insane Hospital of the division, they are to be accompanied by duplicate reports of their cases by the surgeon who has attended them.

Hajut Tajweez and Dewanny prisoners to be separately entered in the monthly statements of deaths among the prisoners.

Extract from a Letter from the Register of the Nizamut Adawlut, to the Deputy Secretary to Government in the Judicial Department, under date the 13*th May*, 1831.

PARA. 5. The Court observe, that it is already provided by the rules for the management and control of the native Insane Hospitals, (paragraph 9,) circulated with Mr. Secretary Bayley's letter of the 23rd October, 1818, that "in the event of an insane person sent to "the hospital having been attended by the medical officer attached to "the *zillah* station, the latter shall furnish a statement of the history and "progress of his derangement, for the information and guidance of "the surgeon in charge of the hospital." They are however of opinion with the commissioner, that this statement should be furnished in duplicate; and they will direct this in future accordingly.

11. The Court approve of the suggestion of the commissioner that the prisoners confined pending the investigation of their cases, and the Dewanny prisoners, should be entered separately in the monthly statements of deaths, and will issue the necessary instructions to the magistrates.

TO THE COMMISSIONERS OF CIRCUIT.

June 3, 1831. No. 84.

Explaining the 6th paragraph of the Court's Circular Order of the 16th July, 1830.

SOME of the commissioners of circuit having misunderstood the 6th paragraph of the Circular Orders of the 16th July, 1830, which was not intended to alter the practice which had before invariably obtained of filing with the record of trials submitted to the Court of Nizamut Adawlut the original confessions of prisoners, the Court deem it necessary to explain that all original confessions and police reports should be annexed, in the first instance, to the original record of the trial; and that in all cases referred to or called for by the Court, the originals should be transferred to the copy of the record submitted, attested copies being retained on the original record.

NOTE.—See Nos. 54 and 191, Vol. II.

TO THE MAGISTRATES AND JOINT MAGISTRATES.

No. 85.

July 15, 1831.

Police officers prohibited from making inquiries into cases of accidental fires, unless charges of arson be preferred to them.

THE Court of Nizamut Adawlut having reason to believe that the visits of the police officers in the interior of their jurisdictions, for the purpose of inquiring into the circumstances of accidental fires, are a source of great oppression on the part of the police officers, and a general subject of complaint among the inhabitants of the villages so visited, desire that you will strictly prohibit the police officers of your jurisdiction from making any inquiries into the circumstances of fires, except when charges of arson may be preferred to them.

TO THE COMMISSIONERS OF CIRCUIT.

No. 87.

July 22, 1831.

The levy of the Chowkeedaree tax to be confined to the stations prescribed by Regulation XXII. 1816.

REPEATED complaints having reached the Governor General of exactions practised in the introduction of the *chowkeedaree* tax, the Court, in pursuance of instructions received from Government, direct me to desire you will prohibit the levy of any tax, either by the magistrates or *darogahs*, on account of the *chowkeedaree* establishments, except at the stations, and in the mode prescribed by Regulation XXII. 1816, unless such establishments shall have been introduced and maintained with the free will and consent of the inhabitants, the withdrawal of which might endanger the security of their property.

TO THE MAGISTRATES AND JOINT MAGISTRATES*.

No. 88.

September 9, 1831.

Authorising the destruction of certain records of the magistrates' courts in the Persian language.

I AM directed by the Court of Nizamut Adawlut to transmit to you, for your information and guidance, the accompanying extracts (paragraph 14) from a letter addressed by order of the Court to the Deputy Secretary to Government in the Judicial Department, on the 13th May last, and (paragraph 12) from the Deputy Secretary's reply, dated the 12th July last, sanctioning the destruction of the Persian records of your court of a date prior to the 31st December, 1815, except the proceedings in cases of commitment for trial before the court of circuit.

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* Communicated on the same date to the commissioners of circuit.

2. The Court desire that you will exercise the greatest care and caution in making the selection of the papers to be destroyed, and that you will use your discretion in preserving any records, in addition to those excepted by Government, the preservation of which you may think necessary.

3. With regard to the manner in which they are to be destroyed, the Court desire that they be burnt in the presence of yourself or your assistant, and that care be taken that none are taken away, lest improper use be made of the seals and signatures of public officers attached to them.

Extract of a Letter from the Register of the Nizamut Adawlut, to the Deputy Secretary to Government in the Judicial Department, under date the 13th May, 1831.

PARA. 14. Although many of the old records of the courts are quite useless, and might be destroyed without the slightest fear of inconvenience, there would be some danger, unless the strictest caution were observed, that valuable documents and papers might be destroyed with the *dewanny* records. This however could not happen in those of the criminal courts: and the majority of the Court therefore beg to suggest the expediency of directing the destruction of all the *foujdarry* records in the Persian language of a date prior to the 31st December, 1815.

Extract of a Letter from the Deputy Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, under date the 12th July, 1831.

PARA. 12. His Honor in Council is of opinion that, in place of directing the destruction of all the *foujdarry* records in the Persian language of a date prior to 31st December, 1815, it would be more expedient to authorise the magistrates to destroy such of those records as they might think unworthy of preservation, provided that all proceedings in cases of commitment for trial before the circuit judge or commissioner be carefully kept.

TO THE MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

No. 95.

Lower and Western Provinces, 9th March, 1832.

Precautions to be adopted to prevent the ulceration of the legs of convicts from the friction of their fetters.

THE frequent ulceration of the legs of convicts confined in the public jails having been brought to the notice of the Nizamut Adawlut, the Court direct me to transmit to you the following observations and orders for your information and future guidance.

2. The ulceration of the legs is attributed to the friction of the fetters, and is said to be more common among prisoners newly admitted, in consequence of the rings of the fetters placed on them being occasionally foul from rust, than among prisoners who have been long in jail, the rings of whose fetters have become in a measure polished, either by friction caused by the motion of the wearers' limbs in exercise, or the care of the convicts in keeping them clean. It has been suggested, as a precautionary measure, that each convict should be made to wear leather gaiters or *mozehs*, extending a few inches above the ankle, to protect that part of the leg on which the fetter rings are likely to rub.

3. The Court accordingly desire that you will cause every convict in your jail, who is confined in fetters, to wear the *mozehs*, and that you will enjoin their guards to be careful that they do not take them off while out at their work. You will also be pleased to direct your jailor to take care that the rings of the fetters, placed on newly-admitted convicts, are quite clean, and freed from all asperities arising from dirt or rust, or carelessness in the original construction; and that at the daily inspection of the fetters, required by paragraph 12 of Section IX. of the rules for the management of jails, he enjoin on the convicts the necessity of keeping the rings of them clean, and bring to your notice any instances of their disobeying this order.

4. The substitution of chains for the long iron links now in use, for connecting the rings attached to the legs of the convicts, has been suggested to the Court, as being calculated to allow the prisoners to walk and work with greater ease to themselves than they can do at present, from the inconvenient position they are constrained to adopt in walking and working, and from the continual fretting and friction caused by the oblique position of the straight iron links. It is at the same time doubtful, whether the security of the prisoners might not be diminished by the adoption of chains, as the chains might be sooner cut through, unless the links were made of a thickness which would add materially to their weight. The Court authorise you to use your discretion on this point; and direct me to take this opportunity of calling your attention to the rule contained in paragraph 58, Section IX. of the rules above-mentioned, restricting the weight of fetters, in ordinary cases, to one and a half seer.

TO THE COMMISSIONERS OF CIRCUIT, WESTERN PROVINCES.

Western Provinces, 12th March, 1832. No. 97.

Commissioners of circuit competent to permit the officers subordinate to them to proceed into the interior of their districts.

I AM directed by the Court to forward to you the annexed copy of a letter from the Deputy Secretary to Government, Judicial Department, communicating the sentiments of his Honor the Vice-President in Council regarding that part of the Circular Order of 8th November, 1806,* which directs magistrates to apply to this Court for permission to leave the sudder station of their district.

2. The Court desire me to inform you that they have adopted the suggestion therein contained; and you are requested to forward copies of my present letter, with its enclosure, to the magistrates of your division, for their information and guidance. In the exercise of the power hereby vested in you, it is expected by the Court that care will be taken to avoid interference with the transactions of business in the civil courts, where the offices of judge and magistrate are held by the same individual.

Copy of a Letter from the Deputy Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut for the Western Provinces, dated 31*st January,* 1832.

You are requested to bring to the notice of the Nizamut Adawlut the inconvenience which, under existing circumstances, results from a strict observance of that part of their Circular Order of November 8th, 1806, which directs that magistrates should apply to them for permission to visit particular parts of their district.

2. The magistracy being now generally severed from the judgeship and united with the collectorship, the same reasons no longer exist for requiring a reference to the superior court in such instances. At the same time, local officers now exist, who exercise superintendence over the proceedings both of the magistrate and collector, and who are well able to appreciate the motives which render the presence of the European functionary in the interior necessary or expedient.

3. His Honor in Council would therefore suggest to the Court the propriety of annulling that part of the order in question, and of informing the local commissioners that they are now vested with authority to permit any of the officers subordinate to them to proceed into the interior of the district, whenever such a measure may appear conducive to the public interests.

* See No. 43, Vol. I. Omitted. For reasons, see Appendix.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 23rd March, 1832.

No. 98.

Commissioners and sessions judges directed to cause commitments not made conformably to Circular Order of 16th July, 1830, to be amended before they proceed with the trial of the prisoners.

THE Court of Nizamut Adawlut having had occasion to observe that prisoners tried before the commissioners of circuit are not unfrequently convicted of receiving or possessing plundered or stolen property, although only committed to be tried for the crime of *dacoity*, highway robbery, burglary, or theft, direct me to call your attention to the 15th, 16th, 17th, and 18th paragraphs of the circular instructions under date the 16th July, 1830,* and to desire that in future when a prisoner is brought before you for trial, whose commitment has not been made in conformity with the instructions cited, you will cause the magistrate to amend it before proceeding to try the prisoner.

2. For the better attainment of the object in view, the Court further desire that you specially instruct the magistrates and joint magistrates of your division, *in all cases* wherein *stolen* or *plundered* property may have been found in possession of prisoners committed to take their trial for *theft* or *robbery*, to insert a *second count* in the commitment, charging them also with the offenee of knowingly receiving the plundered or stolen property, as the case may be.

TO THE COMMISSIONERS OF CIRCUIT AND SESSIONS JUDGES.

Lower and Western Provinces, 13th April, 1832.

No. 100.

Requesting particular attention to the Circular Order of the 16th July 1830, regarding the arrangement of the proceedings in trials referred.

THE Court having several times found occasion to remark the extreme inattention to the Circular Order of the 16th July, 1830,* which is apparent in the references of criminal trials by several of the commissioners of circuit and session judges in the districts within their jurisdiction, such inattention, by rendering it necessary to return the proceedings for revision and amendment, entailing unnecessary delay and great hardship on the prisoners included in them, I am directed, with a view to prevent the future occurrence of such irregularities, to request your particular attention to the Circular Order above cited. The additional degree of labour incident to a more careful arrangement of the papers in each case by the minis-

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* See No. 54, Vol. II.

terial officers of your courts, is trifling in comparison with the objects contemplated by the Circular Order in question. It may be added that as it is found necessary to return the whole proceeding for amendment on the occurrence of these instances of negligence, the labor of the *omlah* of the officer making the reference is only increased by their carelessness in the first instance. You are requested to impress this on the officers of your courts, and, at the same time, to examine carefully each case previous to submitting it to this Court, noting and correcting any errors, and supplying any omission which may be observable.

TO THE SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 11*th May*, 1832. No. 103.

Session judges to report instances of examinations taken by the native officers in the absence of the magistrate or his assistant.

INSTANCES having been brought to the notice of the Court in which witnesses and others in criminal cases have been examined by the native officers of the Magistrates' courts, when neither the magistrate nor his assistant was present, I am directed to inform you that the attention of the magistrates and joint-magistrates has been called to the Circular Order of the Court, under date the 12th December 1809,* and a strict observance of the rules therein contained enjoined; and to request that you will bring to the notice of the Court any deviation therefrom which you may observe in the course of trial held by you.

TO THE CIVIL AND CRIMINAL COURTS, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 18*th May*, 1832. No. 104.

In writing native names the orthography of the original to be closely adhered to.

THE Court having noticed the very careless manner in which the native names of men and places are occasionally written in English, direct me to call your attention to the subject, and to request that in your letters and statements, you will adhere as closely as possible to the orthography of the original.

* See No. 58, Vol. I.

TO THE SESSION JUDGES, LOWER AND WESTERN PROVINCES.

No. 108. *Lower and Western Provinces, 22nd June, 1832.*

Session judges to try cases as soon as possible after the commitments are made, and the cases laid before them by the magistrates.

WITH a view to ensure the more speedy trial of cases committed before the session judges, and uniformity in the manner of designating the trials, I am directed by the Court to communicate the following observations and orders.

2. Some of the session judges appear to imagine that they are required by Regulation VII. 1831, to hold monthly sessions of jail delivery at stated periods. A main object however of that enactment was to relieve the parties and witnesses from the inconvenience of frequent journeys to and from the sudder station, and lengthened detention when there. It is highly desirable therefore that you should proceed upon each trial as soon as practicable after the commitment has been made by the magistrate, who will be directed to give you immediate intimation thereof. Circumstances may occur to prevent you from taking up the case immediately, but the Court desire to impress on your mind the importance they attach to this subject, and to request that you will use your utmost endeavours to prevent unnecessary delay. To enable them to judge whether their instructions on this head are duly observed, you are requested to insert in your monthly statements, Nos. 1 and 2, in the column appropriated to "crime charged," the date on which the case was "committed for trial," and that you will explain the cause of any delay which may occur, in the column of remarks.

Form of distinguishing trials; by the months in which they are held.

3. The Court observe that an uniform practice does not exist with regard to the mode of distinguishing trials, and direct me to inform you that each trial should be distinguished in the heading by the month in which it may be held. The magistrates of the districts to which Regulation VII. of 1831 has been extended, will be* directed to keep separate calendars for each month, entering the trials thereon in regular order. The heading of trials in English and Persian will therefore be as follows:

"COURT OF THE SESSION JUDGE OF ZILLAH ————.

"Trial No. 1 of the sessions for the month of ————, 183—.

"Case No. 3 of the magistrate's calendar for the month of ————, 183—.

روبداد تجویز عدالت سیشن ضلع فلان مقام فلان باجلاس فلان صاحب سیشن جج و روبروي فلان مولوي عدالت † مقدمه نمبر فلان بابت سیشن ماه فلان مطابق نمبر فلان کلندره صاحب مجسٹرت بابت ماه فلان

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* See following Circular.

† In cases tried under Regulation VI. 1832, with the aid of jurors, assessors or *punchayts*, the names and designations of these persons employed should be entered in lieu of the Mahomedan law officer.

4. The monthly statements connected with sessions should, in like manner, be designated by the month in which the trials entered in them were concluded by sentence, or postponed.

NOTE.—See No. 54, Vol. II.

TO THE MAGISTRATES OF THE DISTRICTS TO WHICH REGULATION VII. 1831 HAS BEEN EXTENDED, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 22nd June, 1832. No. 109.

Magistrates immediately to report to the session judges when they commit a prisoner for trial; and to keep separate calendars of commitments for each month.

ONE of the main objects of Regulation VII. 1831, being to prevent the parties and witnesses in criminal trials suffering inconvenience from frequent journeys to and from the sudder station, and lengthened detention when there, the attention of the session judges has* been called to the subject, and they have been directed to proceed on the trial of all cases committed as soon after the commitment as practicable; and I am directed by the Court to request that whenever you may commit a prisoner for trial, you will immediately intimate the same to the session judge, that no unnecessary delay may occur.

2. I am at the same time directed to request that you will keep separate calendars of commitments for each month, and that you will enter the commitments on them in regular order.

TO THE COMMISSIONERS OF CIRCUIT AND SESSIONS JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 29th June, 1832. No. 110.

Commissioners and session judges to submit with all trials called for on perusal of jail delivery statements, an extract from the statements of convictions and acquittals.

MUCH inconvenience having been occasionally experienced by the Court in the revision of proceedings on trials called for on perusal of the statements furnished at the close of sessions, from the want of any record of the grounds upon which sentence has been passed, (the statements having been often forwarded in the mean time to Government,) the Court direct that in future you will annex to the proceedings of each trial submitted under the above circumstances, an extract from the statements, containing whatever information was conveyed in them relative to the case called for. This extract will in fact be a statement in the usual form, including only the particular case which the Court desire to revise. When some prisoners have been punish-

* See preceding Circular.

ed and others released in the same case, an extract from each of the statements will be required.

2. The same remark applies to the prisoners whose trials may be postponed.

NOTE.—See No. 149, Vol. II.

TO THE SESSION JUDGES AND COMMISSIONERS OF CIRCUIT, LOWER AND WESTERN PROVINCES.

No. 111.

Lower and Western Provinces, 20th July, 1832.

Session judges are competent to cancel commitments, reporting each case for the orders of the Court.

VARIOUS cases having been brought to the notice of the Court, involving the question of the competency of session judges to cancel commitments made by the magistrates of their respective *zillahs*, the Court have determined that, under the spirit of the Regulations in force, judges of sessions are competent to exercise that authority. They are however of opinion that the power should be used with the greatest caution, as required by a former Circular Order*; and an English report detailing the reasons upon which it has been thought necessary to resort to this measure, should be submitted in each case to the Nizamut Adawlut.

2. You are requested to communicate the above construction to the magistrates of your division.

NOTE.—See Construction No. 1122.
,, Circular Order, No. 70, Vol. IV.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER PROVINCES.

No. 113.

Lower Provinces, 27th July, 1832.

Requesting that whenever a Christian is tried, his parentage and place of birth may be mentioned.

I AM directed by the Court to request that whenever a Christian may be tried by you, you will state distinctly in your jail delivery statements, or, if the trial be referred to this Court, in your letter of reference, his parentage and place of birth.

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* See paragraph 19 of the Circular Order of the 16th July, 1830, No. 54 of this volume.

TO THE SESSION JUDGES AND COMMISSIONERS OF CIRCUIT, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 3rd August, 1832.

No. 115.

Whenever a session judge is unable to hold sessions for a period exceeding one month, the circumstance should be communicated to the commissioner of the division, that the necessary arrangements may be made.

THE commissioners of circuit being required, by clause 2, Section XIII., Regulation VII. 1831, to hold jail deliveries of the districts within their divisions, whenever, owing to absence, indisposition, or other cause, the session judge may not be able for a period exceeding a month to perform that duty, the Court direct that whenever a session judge may have been prevented by any of the above causes from holding the sessions of his district for the period of one month, he will communicate the circumstance to the commissioner of the division, with a view to enable that officer to make such arrangement as the emergency may appear to demand.

NOTE.—See No. 7, Vol. III.

TO THE COMMISSIONERS OF CIRCUIT, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 24th August, 1832.

No. 117.

Directing that convicts under sentence of imprisonment for life be kept in strict custody within the *zillah* jails, until they are removed to the Alipore jail.

AS cases have occurred of the escape of convicts under sentence of perpetual imprisonment, who were employed on labour in the *zillahs* pending the receipt of the order for their removal to the Alipore jail, and as it seems probable, with reference to the strength and description of the jail guards used in the *zillahs*, that such escapes will occur, if such convicts continue to be so employed, the Court of Nizamut Adawlut direct that in future convicts under sentence of imprisonment for life in the jail at Alipore shall not be sent to work on the roads while they may remain in the *zillahs*, but shall be kept in strict custody in the jails of the respective *zillahs* until they are removed to the place of their ultimate destination.

2. You are requested to communicate this order to the magistrates and joint magistrates of your division.

TO THE CIVIL AND CRIMINAL COURTS, WESTERN PROVINCES.

Western Provinces, 24th August, 1832.

No. 118.

Transmitting copy of a letter dated 9th instant, from the superintendent of the Government lithographic press, relative to the engrossing lithographic forms without charge.

I AM directed by the Court of Sudder Dewanny and Nizamut Adawlut to transmit for your information, the accompanying copy of a letter received from the superintendent of the Government lithographic press, Calcutta, under date the 9th instant.

Copy of a Letter from the Superintendent of the Government Lithographic Press, Calcutta, to the Register of the Sudder Dewanny and Nizamut Adawlut, Western Provinces, dated the 9th August, 1832.

On indenting for lithographic forms, the judges of the Provincial Court of Bareilly have annexed, as authority for the application, a letter to their address from you, dated 6th July, 1832, wherein the Court were pleased to direct that the Bareilly Court of Appeal should charge for them in their contingent bill.

2. I beg distinctly to state for the information of the Sudder Dewanny and Nizamut Adawlut, and, if the Court should see necessary, for the general information of the judicial officers subject to them, that this is exclusively a Government establishment, organized for the sole purpose of aiding the service in the discharge of official details, and that no charge whatever is made for such forms as are executed here.

3. I have been induced to trouble the Court with this communication from the fact that a private lithographic press at Cawnpore has been, by mistake of the officers of Government in the neighbourhood, resorted to, under the erroneous idea of its being on a footing similar to this press. This however is quite a mistake, and there is no other establishment besides this which is the property of Government.

4. I have thought it would be satisfactory to the Court to know that many estimates, showing the actual expense at which Government execute its own forms, as compared with that incidental to private presses, have been furnished. In that last made it was shewn that the forms printed here are done often at one-tenth, and never at more than one-third, of the rate which private presses charge for the same work.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 5th October, 1832.

No. 121.

Session judges are competent to authorise a reward for meritorious services, whenever in the progress of a trial they consider it proper to do so.

I AM directed by the Court to transmit to you, for your information and guidance, the accompanying copy of a letter, under date the 28th May last, received by the register of the Nizamut Adawlut in the Western Provinces, from the session judge of *zillah* Mynpooree, and of a letter addressed to him in reply by order of that Court.

Copy of a Letter from the Session Judge of Zillah Mynpooree to the Register of the Nizamut Adawlut, Western Provinces, Allahabad, under date the 28th May, 1832.

I request to be informed whether a session judge has the power of directing a magistrate or joint-magistrate to pay a reward to an individual in a case tried by him, whose conduct he considers deserving of remuneration; also, whether he may issue instructions relative to the manner in which he is of opinion that the commission of 10 per cent on the value of property recovered should be distributed among the individuals laying claim thereto, under clause 17, Section XVI. Regulation XX. of 1817.

Copy of a Letter from the Register of the Nizamut Adawlut for the Western Provinces, to the Session Judge of Zillah Mynpooree, dated 5th October, 1832.

In continuation of my letter of the 8th June, I am directed by the Court of Nizamut Adawlut for the Western Provinces to inform you, in reply to your letter of the 28th of May last, that the Court, in concurrence with the judges of the Presidency Sudder, have determined as follows with regard to one of the points therein referred.

2. The Courts are of opinion that as the commissioners of circuit in their capacity of judges of circuit, are competent, under Section XVII., Regulation XVI. 1810, and Section XV., Regulation XVII. 1816, to authorise a reward for meritorious services, whenever in the progress of a trial they may consider it proper to do so, the same power must be considered as vested in the judges of sessions under the same circumstances.

3. You will be hereafter informed of the Court's decision on the other question contained in your reference.

NOTE.—See Act XXXI. of 1852, abolishing the commission of 10 per Cent. on the recovery of stolen property.

TO THE CIVIL AND CRIMINAL COURTS, LOWER AND WESTERN PROVINCES*.

Lower Provinces, 19*th October*, 1832.
Western Provinces, { 12*th October*, 1832. / 30*th Nov.*, 1832.

No. 122.

Instructions as to the mode of address to be adopted in communications to *sudder ameens* and *principal sudder ameens*.

Official communications to them should be made by *roobukarees*, and not by *perwanehs*.

I AM directed by the Court to transmit to you, for your information and future guidance, the accompaying copy of a letter from the Officiating Secretary to Government, dated the 2nd instant, pointing out the mode of address to be adopted in communications to *sudder ameens* and principal *sudder ameens*.

2†. I am also directed to observe that the Court are of opinion, that official communications in the native languages between European covenanted officers and *sudder ameens* and principal *sudder ameens* should be made by *roobukarees*, as has been hitherto the practice in the case of registers and assistants, instead of by *perwaneh* and *urzee*, the mode heretofore in force with respect to *sudder ameens*; and to request that you will adopt this mode in future.

Copy of a Letter from the Officiating Secretary to Government in the Judicial Department, to the Register of the Nizamut Adawlut, under date the 2nd October, 1832.

The Honorable the Vice-President in Council having taken into consideration the propriety of fixing the mode of address to be adopted in communications to the *sudder ameens* and principal *sudder ameens*, is pleased to determine that East Indians filling those situations shall be addressed by letter, and receive the appellation of "Esquire." The words "Uzeez-ool-qudur," or some designation of similar import, indicative of respect, is to be employed in communications to the natives filling those offices, and a corresponding mode of address observed.

2. The Court are requested to take the necessary measures for ensuring the observance of these rules.

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* For further rules see Circular Order No. 128 of this volume.

† The substance of this paragraph was circulated by the Western Court on the 30th November, 1832.

TO THE COMMISSIONERS OF CIRCUIT, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 26th October, 1832.

No. 123.

Commissioners of circuit exercising the powers of magistrate, under certain circumstances, required to report the same through the Court to Government.

In pursuance of the orders of Government, I am directed by the Court to request that, whenever you may have occasion to exercise, in your capacity of superintendent of police, the power of magistrate in districts from the session duties of which you have not been relieved, you will report the circumstance to Government through this Court, in order that provision may be made for the trial of any cases committed by you.

2. I am further directed to observe that a commissioner, who retains the office of judge of circuit, should refrain, as much as possible, from interfering as superintendent of police, in cases of which it might be probable the cognizance would belong to him in any other capacity.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 2nd November, 1832.

No. 124.

Instructions regarding reference to former trials in the remarks on jail delivery statements.

I am directed by the Court to request that, whenever you may have occasion in your remarks on the cases of prisoners entered in the statements of those punished without reference, or acquitted and released, to refer to the cases of individuals convicted or acquitted at any former sessions, you will insert such parts of your remarks on the former trial as may be necessary to a proper understanding of the case, and may render a reference to former statements unnecessary.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 16th November, 1832.

No. 125.

Directing the commissioners and session judges to attend

I am directed by the Court to transmit to you the accompanying extract, paragraphs 17 to 21, of a letter from the commissioner of circuit for the 14th division, to the Register of the Presidency Court

to the precautions noticed by the commissioner of the 14th division, in the payment of diet-money to indigent prosecutors and witnesses.

of Nizamut Adawlut, under date the 22nd September last, and paragraph 10 of one written on the subject thereof by the order of the Presidency Court on this date, to the Officiating Secretary to Government in the Judicial Department; and to request that you will carefully attend to the precaution noticed by the commissioner, to prevent overcharges and fraudulent practices on the part of native officers in the payment of diet-money allowed to indigent prosecutors and witnesses.

Extract of a Letter from the Commissioner of Circuit for the 14th Division to the Register of the Presidency Nizamut Adawlut, under date the 22nd September, 1832.

PARA. 17. By the Nizamut's Circular Letter of the 6th September, 1810*, the magistrates, in paying the prescribed allowances to indigent prosecutors and witnesses, are directed to be careful to ascertain the actual attendance of the parties on the courts of circuit, and desired to establish such checks as may appear to them most effectual to guard against overcharges by their native officers, and the detailed accounts for diet-money are to be countersigned by the judge of circuit holding the jail delivery

18. I am not aware that the magistrates can establish any effectual check against overcharges by their native officers, on account of diet-money to indigent prosecutors and witnesses attending the sessions. But a complete check may be established by the judge holding the sessions, and with little or no trouble to himself, if, when he commences a trial, he will only ascertain what witnesses mentioned in the calendar are in attendance, and make a mark opposite the names of the absentees; and, on the termination of the trial, if he will demand from the magistrate's *nazir* a statement of his account for diet-money in that particular case, have the persons stated to have received it brought before him, ascertain from them how much they have received, and direct whatever may be due to them to be paid in his presence.

19. Unless the judge takes some such precaution as above, he certainly, when countersigning the detailed accounts of diet-money after the completion of the sessions, can be as little satisfied as to its correctness as the magistrate.

20. I have been led to make the above observations, in consequence of my detecting the native officer of the magistrate's court of Moorshedabad in cheating both the Government and the witnesses; the Government, by charging for witnesses who were not in attendance, and the witnesses, by giving them less than they were entitled to.

21. The witnesses he cheated by paying them their one anna per diem in cowries, at the rate of 5 puns the anna, instead of 7,

* Nos. 75 and 91, Vol. I.

which was the bazar price, thereby depriving them of rather more than four annas and half in the rupee.

Extract of a Letter from the Register of the Presidency Nizamut Adawlut to the Officiating Secretary to Government in the Judicial Department, dated the 16th November, 1832.

PARA. 10. With reference to the remarks of the commissioner on the subject of overcharges and frauds on the part of the native officers in the payment of the diet-money allowed to indigent prosecutors and witnesses, I am directed to state that the Court conceive the check suggested in the 18th paragraph to be a salutary one, and the several circuit judges will be directed, on holding a jail delivery, to attend to the precaution therein noticed, with a view of correcting the abuses which are found to exist under the present system.

TO THE CIVIL AND CRIMINAL COURTS, LOWER PROVINCES.

Lower Provinces, 16th November, 1832. No. 126.

In references to the Sudder Dewanny and Nizamut Adawlut, copies should be transmitted instead of original papers.

IN consequence of public officers, when making references to this Court, sending, instead of copies as heretofore, original papers which they request may be returned, much inconvenience has of late been experienced, arising from the delay which the examination of the copies prepared in this office occasions in the dispatch of the regular current business. I am therefore directed by the Court to request that, on such occasions, you will send copies, except when you may think it more proper to send originals; in which case, if you deem it necessary to preserve copies for record in your own office, you will be pleased to have them prepared before submitting the originals.

TO THE CRIMINAL COURTS, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 14th December, 1832.

No. 128.

Transmitting a letter from Government containing forms of address and titles

IN continuation of the Court's Circular Letter, No. 122, (dated in the Western Provinces, the 12th, and in the Lower, the 19th October last) I am directed by the Court to transmit to you for your information the accompanying copy of a letter from the Officiating Secretary to Government, Judicial Department, dated the 27th ultimo, prescrib-

of native judges.

ing the forms of address and titles to be used in official communication with the different grades of native judges.

Copy of a Letter from the Officiating Secretary to Government, in the Judicial Department, to the Register of the Sudder Dewanny Adawlut, under date the 27th November, 1832.

With reference to my letter, dated the 2nd ultimo, I am directed to request you will inform the Court of Sudder Dewanny Adawlut that the Vice-President in Council has taken into further consideration the distinction between the forms of address and titles by which the different grades of native judges are to be addressed, and is pleased to resolve that the following forms shall be observed :

	Form of Address.	*Title.*
	PRINCIPAL SUDDER AMEENS.	
Christian.	Sir.	Esquire.
Mahomedan.	لیاقت و اهلیت مآب سلمه الله تعالی	خان بهادر
Hindu.	ایضا	رای بهادر
	SUDDER AMEEN.	
Christian.	Sir.	Esquire.
Mahomedan.	رفعت و عوالي منزلت سلمه	خان
Hindu.	ایضا	رای
	MOONSIFFS.	
Christian.	Sir.	Mr.
Mahomedan.	بعافیت باشند	دیانت و امانت پناه
Hindu.	ایضا	ایضا

2. These will be considered the official titles and forms of address of each of the above grades, and will be used by the covenanted servants of the Government whenever they have occasion to address any written communication to the officers concerned.

3. The Court are requested to circulate these orders for the instruction and guidance of the subordinate authorities.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, WESTERN PROVINCES.

Western Provinces, 19th November, 1832. No. 129.

Requesting the particular attention of commissioners and session judges to the rules laid down in paragraphs 6 and 8 of the Circular Order of 16th July, 1830, for placing prisoners on their trial, and pointing out the inconveniences resulting from a non-observance of those rules.

SEVERAL instances having lately come to the notice of the Court of neglect, on the part of judges holding criminal trials, of the rules for placing prisoners on their trial, laid down in paragraphs 6 and 8 of the Circular Order of 16th July, 1830,* the Court direct me to call your attention to the subject, and to request that you will strictly observe those rules in your future proceedings. The Court observe that after the deposition of the prosecutor, the prisoner should be called on merely to plead "guilty" or "not guilty" to the charge; the nature of the charge having been distinctly explained to him in this stage of proceedings, no further questions should be addressed to the prisoner. After the close of the evidence for the prosecution, the prisoner should be called on for his defence; no questions being addressed to him beyond those necessary to elucidate his meaning, and every thing of the nature of an examination, especially such questions as might lead him to criminate himself, being carefully avoided. I am directed more particularly to impress on you the necessity of a strict attention to regularity on this head, as a neglect of it may often render it necessary that the prisoner be again placed on his trial, and the whole of the evidence heard over again.

TO THE MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 21st December, 1832. No. 130.

Circulating a construction of Regulation II. 1832.

I AM directed by the Court to transmit to you for your information the accompanying extract, paragraphs 2 and 11, from a letter written by order of the Presidency Court on the 7th of September last, to the Deputy Secretary to Government on the general police report for the 13th division for the first six months of 1832, containing a construction of Regulation II. 1832, which has received the sanction of Government.

Extract of a Letter from the Register of the Presidency Nizamut Adawlut, to the Deputy Secretary to Government in the Judicial Department, dated 7th September, 1832.

PARA. 2. With advertence to the commissioner's observation that the decrease in the reported burglaries and thefts may be ascribed to

* No. 54, Vol. II.

the provisions of Regulation II. 1832, the Court remark that the provisions of the Regulation in question do not exempt the *chowkeedars* from the duty of reporting the commission of such offences to the police, who are still bound to report all cases that come to their knowledge to the magistrate: it only prohibits the police from arresting any person, or making local inquiries, without a written application from the party injured. This opinion, with the construction of Regulation II. 1832, contained in the 11th paragraph of this letter, the Court, with the concurrence of Government, propose to issue for the information of the several magistrates and their police officers.

11. With reference to the remark of the commissioner that the police are now prohibited from interfering with robberies unattended with violence, the Court repeat the remark contained in the 2nd paragraph of this letter, that Regulation II. 1832, does not alter the law heretofore in force regarding any heinous crimes except burglaries and theft. As to the concealment of crime by the police, the Court will desire that the magistrate be reminded that he should make use of other sources of information than his police officers to discover crimes, and use his utmost endeavours, by conciliation and kindness, to procure the co-operation of respectable landholders and their agents, in the detection of offenders.*

TO THE CIVIL JUDGES AND COMMISSIONERS OF REVENUE AND CIRCUIT, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 4th January, 1833.

No. 131.

The warrant of a collector is sufficient authority to a civil jailor to receive and discharge prisoners confined under his orders.

I AM directed by the Court to transmit to you, *for your information and guidance,* the accompanying copy of a letter this day addressed by their order to the commissioner of revenue and circuit for the 15th division; [and to request that you will communicate the same to the collectors and magistrates of your division, and direct the latter, under whose control the civil jails are now placed, to instruct the civil jailors to obey the collector's warrant for the confinement or release of defaulters.†]

Copy of a Letter from the Register of the Presidency Sudder Dewanny Adawlut to the Commissioner of Revenue and Circuit for the 15th Division, dated the 4th January, 1833.

I am directed by the Court to acknowledge the receipt of your letter of the 11th ultimo and its enclosure, relating to the necessity

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* See Nos. 53 and 241, Vol. 1.

† The words in Italics were omitted in the letter to the commissioners, and the latter part, between brackets, was not communicated to the civil judges.

of the civil judge's signature to the *perwanehs* to the *dewanny* jailors, for the confinement, at the instance of the collector, of persons in summary suits for rent, under Regulation VIII. 1831.

2. In reply, I am directed to inform you that the Court are of opinion that, as collectors are empowered by Section XX., Regulation VIII. 1831, to execute their own awards, their orders for the confinement and release of defaulters need not pass through the civil judges; and that the warrant of the collector is a sufficient authority to the civil jailor to receive or discharge a prisoner. Copies of this letter will be circulated to the civil judges and commissioners of revenue and circuit for general information

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TO THE SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 18th January, 1833.

No. 132.

Trials not to be postponed by session judges beyond the session next after the sixth month from the date of commitment, except for special reasons to be reported to the Nizamut Adawlut.

THE provisions of Section XLIX., Regulation IX. 1793, (Section XVII., Regulation VII. 1803,) have been ruled to allow a second postponement only of a criminal trial; it being imperative on the judge of circuit, holding the third sessions after the commitment, to dispose of the case on such evidence as may then be before him. The commitments in districts to which Regulation VII. 1831 has been extended are now to be held as soon as possible by the session judge; and it is necessary to provide against the prolonged confinement of prisoners in cases postponed by session judges, and also to afford sufficient time to procure the attendance of the necessary witnesses. The Court therefore direct me to communicate the following rule for your information and future guidance.

2. No criminal trial shall be postponed by a session judge beyond the session of jail delivery which may be held next after the expiration of the period of six months from the date of commitment; except when, for special reasons, the session judge may be of opinion that it should be again postponed; in which case he will report the circumstances under which it has been already postponed, and the grounds on which he has formed his opinion, for the orders of the Court.

TO THE COMMISSIONERS OF CIRCUIT, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 15th February, 1833.

No. 133.

Magistrates may refer to principal sudder ameens and sudder ameens, for investigation and report, criminal cases not finally cognizable by them; but to law officers only such cases as are finally cognizable by them, for trial.

I AM directed by the Court to transmit to you, for the information and guidance of the magistrates and joint magistrates of your division, the accompanying extract (paragraphs 2 and 3) from a letter addressed by their order to the Register of the Court of Nizamut Adawlut for the Western Provinces, under date the 7th December last, in regard to the power of magistrates and joint magistrates to refer criminal cases for investigation to law officers, principal sudder ameens, and sudder ameens. This construction of course supersedes that contained in the Circular Order of the 24th July, 1829, (No. 30, volume II.)

Extract (parapraphs 2 and 3) from a Letter from the Presidency Nizamut Adawlut to the Register of the Nizamut Adawlut for the Western Provinces, dated the 7th December, 1832.

PARA. 2. The Court are of opinion that by Section III., Regulation III. 1821, the zillah and city magistrates are empowered to refer petty complaints for trial to the Hindu and Mahomedan law officers, without reference to the circumstance of their being sudder ameens; the powers vested in law officers by Section III., being extended by Section IV. to sudder ameens specially empowered under Section V., Regulation II. 1821, and to sudder ameens appointed to the stations of joint magistrates, whether so empowered or not. They consider the above rules to be still in force, and in no way affected by Clause 6, Section XVIII., Regulation V. 1831, which, while it authorises the reference of any criminal case for investigation to a sudder ameen, or principal sudder ameen, not being a Mahomedan law officer, though not finally cognizable by him, still leaves the Mahomedan law officer, whether a sudder ameen or not, the power of trying cases finally cognizable by him, which may be referred to him. The reason of the exception in regard to the Mahomedan law officer appears to be the obvious impropriety of his investigating a case in the trial of which, if committed to the circuit or session court, he might have to sit as an assessor, and deliver a *futwa* as to the guilt or innocence of the prisoner.

3. The Court further direct me to observe that they are confirmed in the foregoing opinion by Section III., Regulation II. 1832, which expressly extends the powers of punishment in criminal cases, previously vested in the native law officers by Section III, and in sudder ameens by Section IV., Regulation III. 1821; and that, had those powers been conferred on the law officers, solely in virtue of their

holding the office of sudder ameen, it is manifest they would not, in the above first enactment, have been distinctly referred to in the former capacity, now that they are no longer sudder ameens *ex-officio*.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 22nd February, 1833.

No. 134.

Death warrants to be forwarded to the Nizamut Adawlut when fully executed.

THE Court having had occasion to observe much inattention to the provisions of Section LXXVIII., Regulation IX. 1793, which direct that warrants for the capital punishment of convicts under sentence of the Nizamut Adawlut shall, after being carried into execution, be transmitted to the court from which the sentence issued, I am directed to request that you will in future conform strictly to that rule, transmitting to this Court all executed death warrants immediately on the receipt of them from the magistrates.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 22nd February, 1833.

No. 135.

Calling attention to Circular Order, 16th July, 1830, to prevent the recurrence of certain irregularities noticed in the conduct of criminal trials.

IN reviewing the proceedings held on various trials lately referred to this Court, or called for on a revision of the periodical statements, the Court have had frequent occasion to remark the irregularity which still prevails in the form of putting the prisoners on their trial, as well as great inattention to the rules in force for drawing out the charge or indictment on which the prisoner is tried. These irregularities are not mere deviations from prescribed forms, but in many instances serious omissions, such as vitiate the whole proceedings, and have occasionally rendered it necessary that the case should be re-tried, to the great inconvenience of the witnesses, the delay of justice, and the increase of labour to the judges and ministerial officers of the criminal courts.

2. The Circular Order of the 16th July 1830*, having fully detailed the proper course of proceeding in every stage of criminal

* See No. 54, Vol. II.

trials, it is deemed unnecessary to issue new directions on the subject. Your strict attention, however, is requested to the rules therein laid down, and more especially to paragraphs 15, 16 and 17, regarding the framing of the charge. On first taking up a case committed for trial, the Court are of opinion that the presiding judge should compare carefully the written charge on which the prisoner is committed with the facts of the case as stated in the magistrate's roobukaree of commitment, and that he should, in this stage of the proceedings, cause the magistrate to rectify what may be erroneous, and supply what may have been omitted. This practice would, in the Court's opinion, tend to check in a great measure the irregularities now observable, and in the end be the means of saving the useless expenditure of much time and trouble. In calling on the prisoner to plead, the judge should be careful that the question addressed to him corresponds exactly with the written charge, and where more than one prisoner is included in a case, the question should be addressed, separately and distinctly, to each by the judge himself. There are many other points of less consequence, a greater degree of attention to which is desirable; and it may be observed generally, that even matters of mere form, when connected with a criminal trial, on which the character, liberty, and often the life of an individual depends, assume a degree of importance, which, on a superfical view of the subject, they might not appear to possess. The Circular Order above referred to contains clear and compendious directions on all these points, and a strict adherence to them being deemed essential, the Court confidently rely on your utmost exertions to ensure the attainment of this object.

The names of prisoners to be spelt uniformly, and the names of their fathers to be mentioned when two or more of the same name are included in the same trial.

3. The Court have had occasion to remark that sufficient attention is not paid to correctness and uniformity in the manner of spelling the names of prisoners in the record of evidence. This is a point of great importance, and should meet with your particular attention. Where several prisoners bearing the same or similar names are included in one trial, care should be taken, in recording the evidence given by each witness, to specify the name of the father of the person alluded to, whenever the name of any one of them is mentioned. Very serious inconvenience has resulted from the neglect of this precaution.

Date of perpetration of offence to be noted in the margin of letters of reference.

4. In your future letters of reference, you are requested to note in the margin under the "charge" on which the prisoner is committed, the date on which the offence is supposed to have been perpetrated.

The speedy transmission of the records of trial enjoined. Magistrate's proceedings to be forwarded in

5. Great delay has occasionally taken place between the conclusion of a trial and the receipt of the record of the case in this office. It is needless again to point out the objectionable nature of the practice of deferring the reference of trials, a former Circular Order* having already directed that every means be used to prevent such delay. As however there is reason to believe that it is thought ne-

* See para. 24, Circular Order, 16th July, 1830, No. 54, Vol. II.

cessary by some session judges to have the whole of the magistrate's proceedings copied previous to the transmission of the orignals with the transcript of the proceedings on trial, I am directed to observe that no such necessity exists; the Presidency Court on a former occasion* directed that the original proceedings of the magistrates should be sent, with a view to avoid the delay, trouble, and expense attending the copying of them. The practice noticed effectually defeats the object of the Court's order, and should be avoided; unless in special cases, where peculiar reasons may exist for adopting it.

original. Copies not to be made, except in special cases.

TO THE CIVIL AND CRIMINAL COURTS, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 7th June, 1833. No. 137.

DOUBTS appearing to be entertained as to what is to be considered the date of promulgation of a Regulation, I am directed to transmit to you, for your information and guidance, the accompanying copy of a letter, addressed by order of the Court to the judge of *zillah* Ghazeepore, on the 2nd January, 1824.

A Regulation is to be considered as promulgated from the date of the receipt of the English copy.

Copy of a Letter from the Register of the Sudder Dewanny Adawlut to the Judge of Zillah Ghazeepore, under date the 2nd January, 1824.

The Court of Sudder Dewanny Adawlut have had before them your letter, dated the 6th of September last, together with its annexed copy of correspondence, requesting to be informed, whether the promulgation of a Regulation should be dated from the receipt of the English copy, or of the Persian translation of it.

2. In reply, I am desired to communicate to you the opinion of the Court, that you should be guided by the instructions of Government conveyed to you in the Chief Secretary's letter, dated the 14th of August last; and that a Regulation should be considered promulgated from the date of the receipt of the English copy.

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* See para. 3, No. 27, and No. 94, Vol I.

TO THE ZILLAH AND CITY JUDGES, COMMISSIONERS OF CIRCUIT, AND MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 13th September, 1833.

No. 139.

Explanation to be given in the half-yearly statements of civil prisoners of the cause of detention of any who have been one year in confinement.

I AM directed to transmit to you, for your information and guidance, the accompanying copy of a resolution of the Court of this date, [and to request that you will issue the necessary instructions to the collectors of revenue*.]

Resolution of the Presidency Sudder Dewanny and Nizamut Adawlut, dated the 13th September, 1833.

The Court having had before them some of the statements (No. 9, required by the Circular Order of the 6th April last), of civil prisoners confined in the several jails on the 30th June last, are of opinion, that a brief explanation of the cause of detention should be given when any prisoner has been in confinement one year.

2. The magistrates, having the mere custody of the prisoners, cannot give this information, which must be sought from the civil judge or collector under whose orders they are confined. The Court accordingly desire that the magistrates subdivide their statement, No. 9, as per accompanying form†, distinguishing the prisoners confined under

* Omitted in the letter to the Judges and Magistrates.

† No. 22.

Half-yearly Report of Civil Prisoners confined in the Jail of Zillah ——— on the 30th June (or 31st December), 183—.

1	2	3	4	5	6	7	8
	Prisoners the period of whose detention in Jail						
By order of the	Does not exceed one month.	Exceeds one and is less than three months.	Exceeds three and is less than six months.	Exceeds six and is less than twelve months.	Exceeds one year and is less than two years.	Exceeds two and is less than three years.	Exceeds three years.
Judge and other judicial authorities, ...	4	2	1	1	0 *a*	0 *a*	0 *a*
Collector, ...	3	2	1	0	0 *b*	0 *b*	0 *b*
Total, ...	7	4	2	1	0	0	0

Abstract.	
In jail on the 1st January, 183—, ...	20
Admitted during the 6 months, ...	35
Total, ...	55
Released during the 6 months, ...	41
In jail on the 30th June, 183—, ...	14

the orders of the civil courts from those confined under the orders of the collector; and that he forward the statement, when prepared, to those officers, in order that they may insert on the back thereof the required explanation of the cause of detention of any prisoner or prisoners who may have been confined under their respective orders for a period of one year or upwards.

Ordered, that copies of this resolution be forwarded to the *zillah* and city judges and magistrates, for their information and guidance; and to the commissioners, with a request that they will issue the necessary instructions to the collectors of revenue.

[*a*] *Explanation by the Judge of the cases of Prisoners confined under his orders, or the orders of the Principal Sudder Ameens, Sudder Ameens, and Moonsiffs, who have been confined one year and upwards.*

1	2	3	4	5	6
No. of Prisoners.	Number of cases.	Names of Prisoners.	Date on which they were confined.	Amount for which they are confined.	Remarks.

[*b*] *Explanation by Collector of the cases of Prisoners confined under his orders, who have been confined one year and upwards.*

1	2	3	4	5	6
No. of Prisoners.	Number of cases.	Names of Prisoners.	Date on which they were confined.	Amount for which they are confined.	Remarks.

TO THE COMMISSIONERS OF CIRCUIT, LOWER AND WESTERN PROVINCES.

Lower Provinces, 1*st November*, 1833.
Western Provinces, { 1*st November*, 1833. / 6*th December*, 1833.

No. 140.

Instructions for the removal of gibbets, and the future disposal of the bodies of executed criminals.

I AM directed by the Court to forward to you the accompanying copy of a letter from the Secretary to Government in the Judicial Department, dated the 19th ultimo, and to request that you will instruct the magistrates of your division to cause all the gibbets, whereon the bodies of executed criminals may now be exposed, to be removed, and the latter to be either burnt or buried.

2.* I am further directed to state that the future sentences of the Court will direct that the bodies of criminals shall, after execution, unless claimed by their relations or friends, be either burnt or interred. The magistrates will consider it discretionary with them to dispose of the body in either of these modes most consonant with the customs of the tribe and caste of the sufferer.

Copy of a Letter from the Secretary to Government in the Judicial Department to the Register of the Nizamut Adawlut, dated 19*th October*, 1833.

I am directed by the Right Honorable the Governor General in Council to request that the Court will issue orders for the removal of all gibbets on which the bodies of criminals may be now exposed.

2. I am also instructed to request that the Court will not in future direct the bodies of any criminals to be exposed on gibbets after execution.

TO THE SESSION JUDGES, IN THE LOWER AND WESTERN PROVINCES.

No. 141.

Lower and Western Provinces, 22*nd November*, 1833.

The trial of all cases committed and ready for trial previous to the

I AM directed by the Court to forward to you, for your information and guidance, the accompanying copy of a letter from the officiating session judge of Ghazeepore, to the register of the Court of Nizamut

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* The substance of this paragraph was circulated by the Western Court, under date the 6th December, 1833.

Adawlut in the Western Provinces, dated the 11th ultimo, and of the register's reply under date the 25th of the same month.

commencement of the vacations should be completed, though the vacation should commence.

Copy of a Letter from the Officiating Session Judge of Zillah Ghazeepore to the Register of the Nizamut Adawlut for the Western Provinces, dated 11th October, 1833.

I request to be informed whether it is the opinion of the Court of Nizamut Adawlut that the sessions ought to be held during the Dusserah vacation. I make this request, as the Moulvee of this court. (who is also principal sudder ameen) has applied for leave to proceed home for the holidays.

Copy of a Letter from the Register of the Nizamut Adawlut for the Western Provinces to the Officiating Session Judge of Zillah Ghazeepore, under date 25th October, 1833.

I am directed by the Court to acknowledge the receipt of your letter of the 11th instant.

2. In reply, I am directed to inform you that in the opinion of the Court the principle of Section IV., Regulation III. 1798, should be still considered applicable to the vacations; *viz.*, that the trial of such cases as have been committed and ready for trial previous to the commencement of the vacation should be completed, although the vacation may supervene in the course of it.

TO CERTAIN JUDGES IN THE LOWER AND WESTERN PROVINCES.*

Lower and Western Provinces, 21st March, 1834.

No. 143.

Rules for the custody of civil prisoners at the stations of joint magistrates residing at a place other than the sudder station of the zillah court.

I AM directed by the Court to transmit, for your information and guidance, the accompanying copies of correspondence relative to the custody of civil prisoners confined under the orders of principal sudder ameens, sudder ameens, and moonsiffs, holding their courts within the jurisdiction of a joint-magistrate residing at other place than the sudder station of the zillah court.

2. The correspondence has been forwarded to the joint-magistrate of your district for his information and guidance, and you are requested

* This Circular was addressed to the judges in whose districts joint-magistrates resided at a place other than the sudder station of the zillah court, and to those joint-magistrates.

to issue the necessary instructions to the native judges who may hold their *cutcherries* within his jurisdiction.

Copy of a Letter from the Judge of Zillah Dacca, to the Register of the Presidency Sudder Dewanny Adawlut, under date the 5th February, 1834.

I request you will represent to the judges of the Sudder Dewanny Adawlut the great difficulty and hardship that will arise from having all the defendants in cases of execution of decrees sent from Furreedpoor to this place, as intended by Section VII., Regulation VII. 1832. In the rainy season there are three large and dangerous rivers to cross ; and the hardship and injustice of sending civil prisoners to a jail, distant in some cases at least ninety miles from their houses, in the neighbourhood of which alone they can expect to find means of paying their debts, requires no comment from me. The probability of their escaping, the expense of boat-hire, and various other objections arise.

2. I have therefore, for the present, desired the chief sudder ameen and moonsiffs to forward such prisoners to the magistrate at Furreedpore, whom I have requested to accommodate them in the *dewanny* jail at that place, and to send them over to Dacca by the boat which comes monthly with prisoners and witnesses for the sessions. But I trust the Court will either devise or recommend some plan to Government for the civil prisoners of the Furreedpore division to be detained at Furreedpore, and not transported to Dacca.

Copy of a Letter from the Register of the Presidency Sudder Dewanny Adawlut, to the Secretary to Government in the Judicial Department, under date the 21st February, 1834.

I am directed by the Court to request that you will lay before the Honorable the Vice-Pesident in Council the accompanying copy of a letter from the judge of zillah Dacca, representing the inconvenience and danger attendant on a strict observance of the rule contained in Section VII., Regulation VII. 1832, in the case of persons arrested in execution of decrees under the orders of the principal sudder ameen and moonsiffs of that part of the district which is under the joint-magistrate of Furreedpore.

2. The Court are of opinion that, except in cases in which the debtors might wish to be sent to Dacca, if the principal sudder ameen and moonsiffs were required, on forwarding any person to the joint magistrate at Furreedpore for confinement in the civil jail, at the same time to report the circumstances to the judge at Dacca, who would confirm or cancel the order as might appear just and proper, the form required by the Regulations would be sufficiently observed ; and they propose, should Government see no objection, to instruct the judge of Dacca accordingly.

Copy of a Letter from the Deputy Secretary to Government in the Judicial Department, to the Register of the Sudder Dewanny Adawlut, under date the 10th March, 1834.

I am directed to acknowledge the receipt of your letter, dated the 21st ultimo, with its enclosure from the judge of Dacca, representing the inconvenience and hardship of sending from Furreedpore to Dacca all defendants in cases of execution of decrees passed by the principal sudder ameen and moonsiffs within the Furreedpore limits, in conformity with the rule in Section VII., Regulation VII. 1832.

2. The Vice-President in Council sees no objection to the instructions which the Court propose to issue on this subject.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 6th June, 1834. No. 146.

Prescribing form for warrants of sentences under Section III., Regulation II. 1834, awarding imprisonment and a fine in lieu of labour.

WITH a view to ensure uniformity in the forms of warrants of imprisonment, including a sentence of fine in lieu of labour, under the provisions of Section III., Regulation II. 1834, the Court request that the following form may be adopted for this purpose by commissioners and session judges:

" ———— and sentenced to be imprisoned without irons for " ——— years from this date, and to pay a fine of Rs. ———, " on or before the —— day of ——, or, in default of payment, to " labour, until the fine be paid, or the term of sentence expire."

TO THE COMMISSIONERS OF CIRCUIT AND CIVIL AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 13th June, 1834. No. 147.

Prescribing forms for partial returns to precepts.

IN transmitting a copy of Persian proceedings with an English certificate, containing a partial return to a precept of the Court, it is customary with many of the commissioners and civil and session judges to omit to mention the date of the Court's precept to which the partial return is made, and much time is lost in this office in searching the books to find the order to which it has reference. Those officers are requested therefore, in future, on making such returns, to draw up their English certificates in the following form:

" With reference to a precept of the Sudder Dewanny (or Niza- " mut Adawlut,) dated the ———— in the case noted in the

* ——— *versus* ———

" margin,* I transmit herewith a copy of the proceedings of this " court under this date, and certify that a further (or complete, as " the case may be), return will be made on or before the ———.

" Given under my hand, and the seal of this court, this — day " of ——— 183—.

(Signed) A. B.
Judge (or Commissioner)."

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

No. 148. *Lower and Western Provinces, 8th August,* 1834.

In the marginal note of the letter referring trials to the Nizamut Adawlut, the date of the apprehension and commitment of each prisoner, and the date on which the crime is alleged to have been committed, is to be entered.

As it is necessary that the Court shall be aware of the period which elapses between the different stages of proceedings in criminal trials and in the previous investigations before the magistrates, to enable them to frame a satisfactory report to Government on the administration of criminal justice, I am directed to request that in the note annexed to the head of letters of reference in criminal trials, you will state, opposite to the name of each prisoner, the dates of his apprehension and commitment for trial: you will also add under the heading of "Charge," the date on which the crime is alleged to have been committed.

NOTE.—See No. 54, Vol. II.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

No. 149. *Lower and Western Provinces, 8th August,* 1834.

The Circular Order of 29th June, 1832, declared applicable to criminal trials called for by precept.

WITH reference to the Circular Order of the 29th June, 1832, (No. 110 of this volume) the Court request that you will consider the rule therein laid down applicable to criminal trials, the proceedings in which are submitted for their perusal in obedience to a precept, as well as to trials called for by letter on a perusal of the session statements.

TO THE COMMISSIONERS OF CIRCUIT, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 19th September, 1834. No. 150.

Instructions for the destruction of certain criminal records of the courts of circuit.

I AM directed by the Court to transmit to you the accompanying copy of a letter from the register of the Sudder Dewanny and Nizamut Adawlut for the Western Provinces, dated the 24th April last, containing instructions regarding the disposal of certain criminal records of the late Calcutta court of circuit remaining among those of the late provincial court for the division, and to inform you that the Court have been pleased to resolve, with the sanction of Government, that any records similar to those enumerated therein, which may remain in your office, be also destroyed.

Copy of a Letter from the Register of the Nizamut Adawlut Western Provinces, to the Register of the Presidency Court, under date the 24th April, 1834.

With reference to the orders of Government of the 7th instant, directing that the Sudder Courts shall communicate on the subject of the destruction of a portion of the old criminal records of the late provincial courts, I am directed to submit the following proposal for the opinion of the presidency Court.

First.—That all records of trials on charges of murder, or of any other crime accompanied by murder, decided previous to the year 1820, from which it may appear that any of the accused have hitherto escaped apprehension, be preserved.

Second.—That all records of trials decided since that period, with the exception of those in which the period of sentence has expired, be also preserved.

Third.—That the remainder of the criminal records be burnt.

2. The above rule is not intended to prevent the distributing officer from preserving any record, either of trial or other proceedings, which for some special reason he may think it unadvisable to destroy.

3. The records which are not destroyed will be transmitted to the commissioner of the division to which they belong.

NOTE.—See No. 88, Vol. II.

TO THE COMMISSIONERS OF CIRCUT, LOWER AND WESTERN PROVINCES.

No. 151.

Lower and Western Provinces, 25th September, 1834.

Instructions for lightening the duties of magistrates, and for the conduct of those duties.

I AM directed by the Court to transmit for your perusal, a copy of a letter from the Secretary to Government, Judicial Department, under date the 1st instant, pointing out the means to be adopted by magistrates for lightening the duties of their office when they may have become too laborious to be otherwise performed.

2. You are requested to transmit copies of the same to the magistrates of your division, for their information and guidance. You will at the same time prohibit strictly a practice on the part of those officers, of which an instance has been brought to the Court's notice, of holding cutcherry at the same time in the judicial and revenue departments. The Court have no reason to believe this to be a general custom, but it is thought necessary to make the magistrate aware that no press of business will be considered a sufficient excuse for so irregular and objectionable a course of proceeding.

Copy of a Letter from the Secretary to Government in the Judicial Department to the Register of the Nizamut Adawlut Western Provinces, under date the 1st September, 1834.

I am directed by the Honorable the Vice-President in Council to acknowledge the receipt of your letter, dated the 8th ultimo, with its enclosures, and in reply, to communicate the following observations and orders.

2. The commissioner, under a mistaken view of the orders of Government on his police report for 1833, requiring that the magistrates should retain in their own hands the general control of the police, has required Mr. Pidcock to revise the proceedings of the joint-magistrate in all cases committed to the session judge, and all other cases of importance, whereas it would have been quite sufficient if he had left all the business of the office at the sudder station to the joint-magistrate and deputy collector, with the aid of the assistants; reserving to himself the general control of the police, and a general knowledge of the manner in which the business was conducted by his subordinates, to enable him to interfere whenever he might, for any special cause, deem it necessary.

3. Such an arrangement would have afforded to Mr. Pidcock ample time for making settlements during the season for field operations, and to exercise an efficient control over the conduct of his subordinate officers, as well as the police, for both of which objects the information which he might obtain in the interior of the district would afford peculiar advantages; and it is very important that the native establishments, as well as the people, should see that such control is retained in the hands of the magistrate and collector; and that he is equally anxious and concerned in the proper and efficient

administration of every part of the duties of his office. This can be effected without difficulty, if the head of the office will limit himself to matters of real importance, and will leave the details, subject to a vigilant and systematic control on his own part, in the hands of his subordinate officers. But if the magistrates and collectors will persist in doing business, which can be efficiently performed by their subordinates, they cannot have time to attend to more important business ; thus they become overwhelmed with details, and they attribute their difficulties to the system, whereas the fault is in themselves, for not working the system judiciously.

4. The Court are requested to communicate these orders to Mr. Pidcock, through the commissioner, and to issue such circular orders as they consider best calculated to give effect to the objects stated in this letter, that the system may be properly worked, and such defects as may be then found to attach to the system, corrected.

5. The Court will of course prohibit in all districts the objectionable practice brought to notice in the correspondence.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 11th April, 1834. No. 156.

Commissioners and session judges to communicate to the magistrates their remarks on their statements of acquitted prisoners, when they consider the commitment to have been made on inadequate grounds.

WITH a view of checking the practice by magistrates of committing persons for trial on inadequate grounds, the Court, by their Circular Order of the 8th May, 1829, (No. 24 of this volume,) required the commissioners to specify in their remarks on the statements of acquitted prisoners, whether they deemed the commitments to be made on sufficient grounds ; and being of opinion that such remarks should be communicated to the magistrates by the commissioners and session judges, have been pleased to issue the following rule for their guidance.

2. Whenever the commissioners or session judges may have occasion to notice any thing in a commitment calling for the notice of the Court, they will be pleased to specify the same in their remarks on the statements of acquitted prisoners, and to mention the name of the officer to whom the remark may apply.

NOTE.—See No. 168, Vol. II.

TO THE COMMISSIONERS OF CIRCUIT, CIVIL AND SESSION JUDGES, MAGISTRATES, AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower Provinces, 5*th December*, 1834.
Western Provinces, { 7*th November*, 1834. / 23*rd January*, 1835.

No. 157.

On delivering over charge of an office, the authority for doing so, and the nature of the power vested in the relieving officer must be mentioned.

In modification of the Court's Circular of the 3rd October last, I am directed to inform you that the Court have been pleased to dispense with the copy of the order under which you may deliver over charge of your office; but request, that you will state in your letter the authority for doing so, the date of the order under which you act, and the nature of the power vested in the relieving officer.

TO THE COMMISSIONERS OF CIRCUIT AND CIVIL AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

No. 159.

Lower and Western Provinces, 6*th February*, 1835.

Rules for defining the duties to be performed by assistants and other officers in charge of the office of civil and session judge.

The judge on delivering over charge will certify that he has called the attention of the relieving officer to these rules.

In pursuance of the orders of Government, I am directed by the Court to transmit to you, for record in your office, the accompanying copies of rules for defining the duties to be performed by assistants and other officers in charge of the office of civil and session judge.

2*. Whenever you deliver over charge of your office to an officer not authorised to act as judge, you will be pleased to call his particular attention to these rules, and certify that you have done so in the letter reporting the fact to the Court.

Rules for defining the Duties of Assistants and other Officers in charge of the Office of Civil and Session Judge.

First.—Whenever the charge of the current duties of civil and session judge of any zillah or city may, from death, indisposition or other casualty, devolve to the assistant attached to the court; or whenever the assistant to the commissioner, collector, or magistrate, or any other covenanted European officer may, by the orders of a competent authority, take charge of the current duties of the office of judge or session judge, (not being vested by Government with the full power of judge,) such assistant or other officer shall confine himself to the exercise of such part of the powers of judge as may be

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* The second paragraph was communicated to the judges only.

indispensably necessary for the immediate execution of processes or orders of the Sudder Dewanny and Nizamut Adawlut, for the issue of warrants under sentences of the Nizamut Adawlut, making returns to such warrants, and the transmission to the Court of the proceedings in criminal trials for the execution of the processes from other zillah or city courts, or for such other cases of emergency as will not admit of delay.

Second.—Such assistant or other officer is also authorised to receive any new civil suits of whatever description, which may be instituted according to the Regulations ; to refer to the subordinate courts such as may be cognizable by them, and to proceed upon suits which are exclusively cognizable by the judge, so far as to issue notice to, or summon the defendant, and receive his answer, as well as any written documents or lists of witnesses which may be offered by the parties or their vakeels, in pursuance of orders passed previously by the judge ; but no further, unless in any instance there shall appear to be urgent reason to take the evidence of any witness or witnesses in such suits, in which case he may take or cause to be taken the depositions of such witnesses under the general rules prescribed for the conduct of the zillah and city judges.

Third.—He is likewise empowered to receive any sums which parties may be desirous of depositing in cases of mortgage, or as vakeels' fees ; and pay to vakeels or other parties sums, for the payment of which the judge may have already given orders. He shall also be empowered to conduct, in conformity to the Regulations, any summary inquiries which may appear to require immediate attention and process ; to make the summary investigations respecting the indigence of persons desirous of suing *in formâ pauperis*, and the validity of security tendered by parties under the orders of the judge or other competent authority ; to carry into effect orders passed previously by the judge for the sale of property attached to execution of decrees or other judical process, or to stay the sale of such property pending the investigation of objections or claims preferred ; but it shall not be competent to the assistant or other officer to hold such investigation, or to issue orders for the sale of such property, excepting when it may be of a perishable nature.

Fourth.—The assistant or other officer in charge will cause to be prepared and forwarded any statement or reports which the civil or session judge may, under the rules in force, be required to submit to the Sudder Dewanny or Nizamut Adawlut, or to Government, as the case may be.

NOTE.—See No. 38, Vol. III.

TO THE COMMISSIONERS OF CIRCUIT, AND CIVIL AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

No. 160. *Lower and Western Provinces, 6th February*, 1835.

Rules regarding precepts, certificates and returns.

I AM directed by the Court to forward to you, for your information and guidance, the accompanying copy of rules regarding precepts and returns, with the forms of such as are applicable to your court.

Rules regarding Precepts and Returns.

First.—All precepts shall be drawn out according to the annexed forms (Nos. 1, 2, 3, 4, 6 and 7).

Second.—All orders directing the issue of precepts shall state whether a return is required, and within what period.

Third.—The period shall be calculated from the date of the despatch of the precept from this office.

Fourth.—Precepts and returns shall bear the dates of despatch, not the date of proceedings which accompany them, as heretofore; and the subordinate courts will be expected to despatch their returns within the period allowed.

Fifth.—When a judge of a court has signed a chittah, directing the issue of a precept, it shall be the duty of his peshkar to prepare a copy of the roobukaree, duly attested by his signature, together with such other papers as should accompany the same, and to send them by a mohurrir to the English clerk in the precept department, within seven days from the date on which the chittah was signed by the judge. The roobukaree shall bear a list of the accomanying papers at the foot of it; and the peshkar shall be responsible that they are correct and complete.

Sixth.—The English clerk will note on each proceeding the date of receipt, and, after preparing the precepts, will submit them for the register's signature; he will then enter them in the proper books, and will despatch them on the same day if possible; if not despatched till the next day, or later, the day of the precepts shall be altered to correspond with that of despatch.

Seventh.—If the officer to whom the precept may be addressed find it impracticable to send a complete return within the prescribed period, he will transmit a proceeding, with a certificate according to the annexed forms, (Nos. 5 and 8,) stating the reason, and the additional period which he may require to carry the Court's orders into effect*.

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* The Commissioner and judges were required by Circular Order, 17th July, 1835, to insert on the face of certificates, in addition to the number of the suit and the names of the parties, the number of the precept register of the Sudder Court.

Eighth.—Such returns and certificates, when received in this office, shall, after having been endorsed and entered in the proper books, be sent by the precept—clerk to the peshkar of the judge by whom the precept was issued, who will note on each the date of receipt, and bring it forward in the usual course.

Ninth.—If the period allowed in a precept, together with the number of days occupied by the letter *dâk*, expire before a return or explanatory proceeding and certificate be received, the register shall send a letter calling for explanation within a specified term; should this term also expire without receiving a reply, the circumstance shall be brought to the notice of the judge who issued the order, for such further measures as he may deem advisable.

Tenth.—The officer by whom a return or certificate may be sent will cause a list of the papers which accompany it to be written at the foot of the roobukaree.

Eleventh.—If the papers, &c. which should accompany a precept or return are too heavy for the letter *dâk*, they shall be sent by *dâk banghy*, with a note stating the case and precept or return to which they belong; the precept or return itself with the proceedings of the Court being sent as usual by the letter *dâk*.

Twelfth.—The precept—clerk will, at the close of each week, subto the register a list of unanswered precepts and letters, to which returns are due.

List of Precepts, Returns, and Certificates, Nizamut Adawlut.

No. 6. Precept calling for proceedings, with a return.

No. 7. Precept requiring no return.

No. 8. Certificate to be submitted when a full return cannot be submitted within the prescribed period.

No. 6. *Precept.*

No. of Precept Register, ———.

NIZAMUT ADAWLUT.

———, Petitioner.

To A. B., Esq.

Commissioner of Circuit, ——— Division.
(or Session Judge of Zillah ———.)

PRESENT. ——, *Esq.* *Judge.*

Herewith you will receive a petition from ——— *(if other papers are sent they will be mentioned)* and an extract from the proceedings of the Nizamut Adawlut of the — of ——, 183—, held before Mr. ———, to the orders contained in which you are required to conform; returning this precept duly executed, or good and sufficient reason why it has not been executed, with a report of what you

may have done in pursuance hereof, on or before the — of ———, 183—.

By order of the Court of Nizamut Adawlut,

Fort William,
the — of —— 183—. C. D.
Register.

Return. (To be endorsed on the preceding.)

Court of the Commissioner of — Division (or Session Judge of Zillah ——.)

I, A. B., Commissioner (or Session Judge, &c.) do hereby certify that the orders contained in this precept have been duly carried into execution.

Given under my hand and the seal of the court, this — day of ———, 183—.

Criminal Department,
(Division or District,)
the — of ——, 183—.
A. B.
Commissioner (or Session Judge).

Memorandum of papers submitted.

[*Here mention the papers or proceedings submitted.*]

No. 7. *Precept.*

NIZAMUT ADAWLUT.

———, Petitioner.

To A. B., Esq.

Commissioner of Circuit, —— Division,
(or Session Judge of Zillah ———.)

Herewith you will receive for your information and guidance an extract from the proceedings of the Nizamut Adawlut of the — of ——, 183—, held before Mr. ———, to which you are required to conform; together with *(here mention the papers sent).*

By order of the Court of Nizamut Adawlut,

Fort William,
the — of ——, 183—. C. D.
Register.

No. 8. *Certificate.*

No. of Precept Register, ———.

Court of the Commissioner of — Division (or Session Judge of Zillah ———.)

———, Petitioner.

To the Register of the Court of Nizamut Adawlut, Fort William.

With reference to the precept of the Nizamut Adawlut, dated the — of ——, 183—, covering an extract from the Court's proceedings of the — of ——, 183—, held before Mr. ———, I hereby certify the accompanying extract from my proceedings of the — of ——, 183—, containing a return to the said precept. I

further certify that I propose to submit a further (or full) return on or before the — of ——, 183—.

Given under my hand and the seal of the court, this — day of ——, 183—

Criminal Department,
(Division or District,)
the — of ——, 183—

A. B.
Commissioner (or Session Judge).

TO THE COMMISSIONERS OF CIRCUIT, MAGISTRATES, AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 20th February, 1835. No. 162.

Assistants to magistrates vested with special powers under Clause 3, Section II., Regulation III. 1821, cannot award a longer term of imprisonment, in lieu of stripes, than one month.

I AM directed by the Court to forward for your information the accompanying copy of a letter from the Register of the Nizamut Adawlut for the Western Provinces to the Commissioner of Circuit of the 4th Division.

Copy of a Letter from the Register of the Nizamut Adawlut, Western Provinces, to the Commissioner af the 4th, or Moradabad Division.

I am directed by the Court to acknowledge the receipt of your letter of the 3rd instant, with enclosure.

2. In reply I am directed to inform you that under the terms of Section II., Regulation II. 1834, assistants exercising the special powers described in clause 3, Section II., Regulation III. 1821, cannot in any case award a longer term of imprisonment than one month, in lieu of stripes. They are however at liberty, as in other causes in which they deem the prisoner deserving of a degree of punishment beyond their competency, to return the case to the magistrate for the issue of final orders, stating their own opinion thereon.

TO THE CIVIL AND CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 27th February, 1835. No. 163.

Native officers, judicial, ministerial, or police, (present incumbents as well as those who may be appointed in future), to be

IN pursuance of the orders of the Government of India, I am directed by the Court to transmit, for your information and guidance, the annexed copy of letter from the Secretary to the Government of Agra in the Judicial Department, under date the 7th instant.

2. In future, on the appointment of any native officer on your establishment,* whether the situation to which he may be nominated

* See Circular Order No. 166 of this vol.

required to file schedules of their landed property and future acquisitions, on pain of dismissal from office.

be of a judicial or ministerial nature, or connected with the police department, you will require from him a schedule of any landed property of which he may at the time be possessed, and at the same time explain to him that should he subsequently make further acquisitions of the same description, it will be incumbent on him to communicate the circumstance to you within one month from the date of the acquisition: should he fail to do so, or should it appear that he has wilfully omitted in his schedule any landed property belonging to him at the time of filing it, he will be liable to dismissal from office.

3. All such schedules, as may be filed in your court, you will immediately transmit to the office of the collector of the district for record.*

4. You will also consider the above rule applicable to present incumbents, and will accordingly call on the officers now attached to your establishment to file a similar schedule, explaining to them the nature of the penalty attached to wilful concealment.

Copy of a Letter from the Secretary to the Governor of Agra to the Register to the Sudder Dewanny Adawlut, Western Provinces, under date 7th February, 1835.

I am directed to acknowledge the receipt of your letter, dated the 23rd ultimo, with its enclosures, and to state that the Honorable the Governor concurs in opinion with the majority of both the Courts of Sudder Dewanny Adawlut of the two presidencies, that the native officers in the judicial department should be required to file a schedule of their landed property on taking office, and to renew it on the occasion of further acquisition; that the schedule be registered in the collector's office, and that the omission to enter any portion of their property in the schedule should render them liable to dismission from office.

TO THE CIVIL AND CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

Western Provinces, 10th April, and Lower Provinces, 4th September, 1835.

No. 166.

Schedule of landed property not to be required from native officers who receive less than 20 rupees per month.

In continuation of the Court's circular of the 27th February last, (No. 163 of this volume) I am directed to inform you, that the schedule of property therein mentioned need not be required from any native officer who receives a salary of less than 20 rupees per mensem.

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* See No. 170 of this vol.

TO THE COMMISSIONERS OF CIRCUIT, SESSION JUDGES, MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

Western and Lower Provinces, 15th May, 1835. No. 167.

Prescribing a form of register of warrants of criminal sentences.

I AM directed by the Court to transmit for your guidance the annexed form of a register of warrants to be in future kept up in your office. In adopting this form, you will be guided by the rules laid down in the note thereto annexed.

*Register of Warrants.**

1	2	3		4		5			6			7
Name of Prisoners.	Date of Sentence.	Term of Imprisonment.		When the sentence will be required.		Warrants when received back from jailor or magistrate.			Warrants when returned to the Nizamut Adawlut.			Memo.
		Years.	Months.	Month.	Date and Year.	Month.	Date.	Year.	Month.	Date.	Year.	
Gharum, ..	10th April 1826,	7	,,	April,	10th, 1833	April,	12th	1833	,,	,,	,,	
Jubba, ..	7th Aug. 1833,	Death.		,,	,,	Sept,	10th	1833	Sept.	12th	1833	
Janee, ...	5th Sept. 1833,	Release.		,,	,,	Sept.,	12th	1833	,,	,,	,,	Column 6 to be omitted in Magistrate's Register.
Pema, ..	27th Feb. 1833,	,,	6	Aug.,	27th, 1833	Sept.,	28th	1833	,,	,,	,,	
Rambuxsh,..	3rd Feby. 1833,	,,	3	May,	27th, 1833	May,	29th	183[illegible]	,,	,,	,,	

NOTE.—See No. 225, Vol. II., and No. 21, Vol. III.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER PROVINCES.

Lower Provinces, 22nd May, 1835. No. 168.

Remarks by commissioners and session judges on state-

EXPERIENCE having shown that that part of the Circular Order of the 11th April, 1834, (No. 156 of this volume,) which requires the session judge, who may consider a commitment to have been

* In this register prisoners should be entered *under the year in which their sentences expire*, so that a glance over it at the end of each year will show whether any have been by neglect confined beyond their period of sentence. A memorandum of this should be made and signed by the Commissioner, Session Judge, or Magistrate at the close of each year. Prisoners sentenced to death or to imprisonment for life, should be entered *in the year in which they are sentenced.*

The register of each court should be confined to the warrants issued from that court. Warrants of Magistrates, Joint Magistrates, and Assistants to be returned by the jailor when completely executed, with an endorsement to that effect on the reverse.

ments of prisoners acquitted must not be communicated in the first instance to the committing officer, but to the Nizamut Adawlut.

made on inadequate grounds, invariably to communicate his opinion to the committing magistrate, has not been productive of the advantages anticipated from it, the Court have been pleased to annul it, and request that you will in future communicate your sentiments on this point to the Court alone ; and in cases in which the commitments may be deemed objectionable, that you will distinctly and fully detail the ground on which you have come to this conclusion, mentioning, as required by the Circular, the name of the committing officer. The Court, after calling for explanation in instances in which it may appear necessary, will thus be enabled themselves to accomplish the object in view, by pointing out such cases as may, in their opinion, really call for notice to the attention of the committing officer, with such observations as may be deemed applicable, for his future guidance.

NOTE.—See No. 24, Vol. II., and No. 57, Vol. III.

TO THE CIVIL AND SESSION JUDGES AND MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

No. 169. *Lower and Western Provinces, 29th May*, 1835.

Instructions regarding the authorities by whom persons charged with perjury before the civil court, or before a session judge, are to be committed and tried.

DOUBTS appearing to be entertained as to the authority by which persons charged with the commission of perjury in civil courts, or before a sessions judge, are to be committed and tried, I am directed by the Court to communicate to you the following instructions.

2. In cases of perjury in the civil courts, (whether before the judge or a subordinate court,) the commitment should, according to clause 2, Section 14, Regulation XVII. 1817, be made by the judge ; who will, at the same time, determine whether the persons charged are to be admitted to bail or kept in custody ; the duty of the magistrate being confined to causing the attendance of the parties and witnesses before the court by whom the case is to be tried. When the civil judge has made a commitment, he cannot try it in his capacity of session judge ; it must be tried by the commissioner of the division.*

3. In perjuries before a session judge, he is at liberty, under Section 6, Regulation II. 1807, to direct the magistrate to commit the offenders for trial, and immediately to proceed to the trial of the case himself.

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* See Act I. 1848.

TO THE CIVIL AND CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

Western Provinces, 29th May, and Lower Provinces, 3rd July, 1835.

No. 170.

Native officers to include in their schedules all land held by them, under whatever tenure.

In what offices the schedules are to be registered.

In continuation of the Circular Order of the 27th February last, (No. 163 of this volume,) the Court hereby direct that the Schedule required by that Circular Order shall include, not only land, the proprietary right of which may be vested in the public officer to whom it may relate, but any land or other real property, whatever may be the nature of the tenure by which he may hold it, the description of tenure being also recorded in the schedule.

2. (Western Provinces.) These schedules will be registered in the office of the collector of the *zillah* in which the officer may be employed; and copies of the same sent to the collectors in whose *zillahs* the property therein included may be situated.

2. (Lower Provinces.) The schedule will be registered in the office to which the individual giving it in may be subordinate; and copies will be sent to the collectors in whose districts the property specified may be situated.

TO THE CIVIL AND CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 3rd July, 1835.

No. 171.

Public officers vouching for the sufficiency of the security of treasurers and other native officers entrusted with public money, will be considered responsible for the safety of the public funds entrusted to such officers, and held accountable for any insufficiency of security.

I AM directed by the Court to transmit to you, for your information and guidance, the accompanying extract from a letter from the Secretary to the Government of Bengal, dated the 16th ultimo, regarding the security required from native officers who hold situations of pecuniary responsibility.

Extract (part of paragraph 1*) from a letter from the Secretary to the Government of Bengal, dated the* 16*th June.*

The object of the Honorable the Court of Directors will be sufficiently attained if the Court satisfy themselves, annually, that the officers subject to their jurisdiction have severally instituted the necessary inquiries to establish the validity of the security furnished by those of their subordinates who hold situations of pecuniary responsibility. But it should be distinctly explained to all the functionaries who are required to furnish this annual report, that when they vouch for the sufficiency of the security in each case, they thereby render themselves responsible for the safety of the public funds committed to the charge of their ministerial officers, and that they will be held accountable for any insufficiency of security which may subsequently be experienced.

NOTE.—See No. 216, Vol. II.

TO THE COMMISSIONERS OF CIRCUIT, SESSION JUDGES, MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower Provinces, 10*th July,* 1835.
Western Provinces, { 12*th June, and* 7*th August,* 1835.

No. 172.

No persons excepting the guards on duty to be allowed to enter cutcheries wearing arms.

In consequence of the recent attack made on a magistrate by a prisoner in open court, I am directed to request that you will take proper measures to prevent all persons (whether prisoners or others), except the guards on duty, from wearing arms within your cutchery.

TO THE COMMISSIONERS OF CIRCUIT, MAGISTRATES, JOINT MAGISTRATES AND PRINCIPAL ASSISTANTS, WESTERN PROVINCES.

No. 173. *Western Provinces,* 17*th July,* 1835.

Magistrates required strictly to conform to the rules in force in offering rewards for the apprehension of offenders.

I am directed by the Court to transmit, for your information and guidance, the annexed copy of a letter from the Secretary to Government, Judicial Department, under date 7th instant, with copy of its enclosure.

2. You will be careful in general not to exceed the power vested in you by the Regulations and Circular Orders in force as regards the offer of rewards for apprehension. In extreme cases, which will not admit of the delay attending a reference to a higher authority, should such a measure be found absolutely necessary, it should be immediately reported for the sanction of the officer duly authorised to make the offer which may have been tendered.

Copy of a Letter from the Secretary to the Government of Agra to the Register of the Nizamut Adawlut, Western Provinces, under date the 7th July, 1835.

I am directed by the Honorable the Governor to transmit to you the annexed extract (paragraph 14) from a despatch from the Honorable the Court of Directors, dated the 3rd December, 1834, and to request that the Court will issue such orders as will put a stop to the practice noticed by the Honorable Court.

Extract from a Despatch from the Honorable the Court of Directors, dated the 3rd December, 1834, *in the Judicial Department.*

Para. 14. We are glad to be informed of the apprehension of two sirdar *dacoits* for which rewards of 500 and 200 rupees res-

pectively had been offered. We trust, however, that a stop has been put to the practice of disbursements (especially on so great a scale) being made by subordinate officers, not only without the previous sanction of Government, but without even any intimation that such an authority had been assumed.

NOTE.—See Act XVI. 1843.

TO THE COMMISSIONERS, AND CIVIL AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 17th July, 1835. No. 174.

The No. of the precept register to be invariably entered when full returns cannot be made within the prescribed period, to certificates submitted to the Courts of Sudder Dewanny and Nizamut Adawlut.

WITH a view to obviate the delay which occurs in registering certificates containing partial returns to the Court's precepts, in consequence of their not bearing the Nos. of the precept register, which are always to be found in the precepts themselves, I am directed to request that you will in future, in addition to the No. of the cause in which the precept is issued and the names of the parties, invariably insert the No. of the precept register, agreeably to the accompanying form,* whenever you may have occasion to transmit such certificate in reply to precepts issued since the 1st of April last.

TO THE CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 24th July, 1835. No. 175.

Session judges declared competent to direct a magistrate to commit for trial any person or persons, (connected with a trial pending before them,) whom the magistrate has not thought fit, or objects, to bring to trial.

I AM directed by the Court to forward to you, for your information and guidance, the accompanying copy of a letter written by order of the Court of Nizamut Adawlut at Calcutta, on the 19th ultimo, to the Secretary to the Government of Bengal, and of the reply, dated the 7th instant, declaring session judges competent to order a magistrate to commit any person or persons, (connected with a trial pending before them,) whom the magistrate has not thought fit, or objects, to bring to trial.

* The manner in which the No. of the precept register is to be entered in certificates is shewn in the forms of certificates, Nos. 5 and 8 of Circular Order of 6th February, 1836, No. 160 of this volume.

Copy of a Letter from the Register of the Presidency Nizamut Adawlut to the Secretary to the Government of Bengal, dated 19th June, 1835.

I am directed to state, for the information of the Honorable the Governor of Bengal, that doubts have been entertained, whether, with reference to Section V., Regulation VII. 1831, a session judge is competent to order a magistrate to commit a person, (in a trial pending before him,) whom the magistrate has not thought fit, or objects, to bring to trial. The Court are decidedly of opinion, that this power ought to be vested in the session judges, and accordingly beg to suggest that their competency to exercise it be specially declared in the manner prescribed by Act VII. 1835.

Copy of a Letter from the Secretary to the Government of Bengal to the Register of the Presidency Nizamut Adawlut, under date the 7th July, 1835.

In reply to your letter of the 19th ultimo, I am directed by the Honorable the Governor of Bengal to request that you will inform the Court, that in compliance with their recommendation, in the propriety of which he entirely concurs, he is hereby pleased, under Act No. VII. 1835, to declare all session judges, or other officers exercising the powers of session judges, competent to order a magistrate to commit any person or persons, (connected with a trial pending before them,) whom the magistrate has not thought fit, or objects, to bring to trial.

NOTE.—See No. 123, Vol. III.

TO THE CIVIL AND CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 25th September, 1835.

No. 179.

Judicial officers delivering over charge of their offices are required to furnish the relieving officer with lists of unanswered letters and of periodical statements overdue.

IT having occasionally been pleaded by civil functionaries, who have recently joined their offices, in answer to calls by the Court for replies to letters, and for periodical statements overdue, that, not having had time to look into their records, they were not aware that the replies or statements had not been sent; the Court have been pleased to resolve, that all judges, commissioners, magistrates, and joint-magistrates, on delivering over charge of their offices, shall furnish the officer who relieves them with a list of all unanswered letters, and of all periodical reports and statements, which, having become due, have not been forwarded to the Court.

2. Periodical reports and statements will be considered as due immediately on the expiration of the month, quarter, half year, or year, to which they relate.

When periodical statements are to be considered due.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, WESTERN PROVINCES.

Western Provinces, 2nd October, 1835. No. 181.

I AM directed by the Court to transmit for your information and guidance the annexed extract, paragraph 2, of a letter from the Secretary to Government in the Judicial Department, under date the 15th ultimo, and to request, that as far as circumstances may admit, you will conform to the rule contained therein, by availing yourself, in the trial of such cases, of the assistance of a jury under the provisions of Regulation VI. of 1832.

Trials in which religious prejudices are concerned should be tried in all possible cases by jury, and not by Mahomedan law.

Extract from a Letter from the Secretary to Government in the Judicial Department to the Officiating Register of the Nizamut Adawlut, Agra Presidency, dated the 18th September, 1835.

PARA. 2. The Governor is of opinion that trials, in which the religious prejudices of Mahomedans or any other class are concerned, ought in all possible cases to be conducted without the Mahomedan law officer. A *futwa* on any point of Mahomedan law may, if necessary, be required, without the attendance of the law officer on the trial.

TO THE MAGISTRATES AND JOINT MAGISTRATES, WESTERN PROVINCES.

Western Provinces, 16th October, 1835. No. 182.

SEVERAL of the magistrates having reported that considerable inconvenience is experienced in their offices from the great accumulation of old and useless records, which are too voluminous to be contained in their record rooms, and only impede a reference to that portion which is of real utility, the Court have determined, that where such inconvenience is actually felt, a portion of the records shall be burnt at the discretion of the magistrate, subject to the following rules.

Authorising the destruction of certain criminal records in the magistrates' courts in the Western Provinces.

2. The magistrates of the zillahs enumerated below* having stated that there is no want of room in their record offices, they will not of course act upon this order, which is not intended to require that any portion of the records should be destroyed, but merely to point out what portion may be so disposed of where such a measure is absolutely necessary.

RULES.

1. All records of investigation on trial, in cases in which any of the accused may appear to have escaped apprehension, to be preserved.

2. All records of cases decided under the provisions of Regulation XV. of 1824, and generally of cases of disputed possession of immoveable property, which may be required, at some future period, by the courts of civil judicature as evidence, or for other purpose in the investigation of claims to the proprietary right in such property, to be carefully preserved.

3. Of the papers prior to and from 1820 to 1830 inclusive, all records of cases of petty theft, assault, slight affray, trespass, abusive language, and such like, and all miscellaneous reports received from the thannahs, or from the ministerial officers, be destroyed.

4. In the remaining criminal trials up to the same period, the following papers be destroyed, *viz.*

First.—The whole of the depositions taken before the thannadar or other police officers, with exception to the prisoner's reply.

Second.—All moochulkas taken at the thannah from prosecutors and witnesses, binding themselves to attend at the magistrate's court to give evidence in the cases in which they were executed, as well as those of a similar nature taken by the magistrate in cases committed to the sessions, or from parties obliging themselves to remain in attendance at his cutcherry until their cases have been disposed of.

Third.—All purwannahs addressed to the thannahdars during the progress of a criminal trial, summoning witnesses, and the replies thereto, as well as the daily reports which those officers are required by some magistrates to submit in each case, until the apprehension of the persons supposed to have been concerned, and the despatch of the *kyfeeut-i-moofussil*, in which the substance of such reports is usually given. The following papers, which will then form the record of a criminal trial, will be preserved, *viz.*—The list which is annexed to each thannah report, shewing what papers accompany it; the detailed thannah report, or *kyfeeut-i-moofussil;* the sooruthal; the *nugsha-i-waridat;* the prisoner's reply; the chullans of prisoners' property and witnesses, and the magistrates' proceedings divested of the papers enumerated above.

5. By the general and careful adoption of this last rule to the fullest extent of which it will admit, the records of every magistrate's

* Azimgurh, Belah, Bijnore, Budaon, Bundlekund, N. D. (Humeerpoor), Delhi, Ghazeepoor, Goorgaon, Muttra, Rohtuck.

office will at once be diminished in a material degree, and the removal from each misl, or bundle of proceedings, of all superfluous and useless papers according to the foregoing instructions, while it will not in any way impair its value as evidence on any future occasion to prove either previous convictions, or bad character, or for any other purpose, will, at the same time, reduce it to a convenient size and shape, admitting of ready reference to those parts of it which contain really useful information.

6. Care should be taken that all documents or deeds of any value, which may have been put up with the records of cases liable to be burnt under the foregoing rules, be first removed, and that no papers having the seal or signature of public officers are carried away by private individuals.

TO THE MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 20th November, 1835. No. 183.

Prescribing forms for applications to the Nizamut Adawlut, for orders for the removal of convicts sentenced to banishment or transportation.

WITH a view to facilitate the verification of the statements of convicts sentenced to banishment and transportation, and to expedite the removal of convicts to their place of banishment, the following rules have been passed for the guidance of the magistrates, in modification of those contained in the Circular Order of the 18th July, 1828, (No. 6 of this volume,) and you are requested strictly to observe them.

2.* I am, at the same time, directed to request that no prisoner under sentence of transportation beyond sea, or perpetual or temporary imprisonment in banishment, though the place in which he is to undergo his imprisonment be mentioned in the sentence, be removed from the jail of your district until the receipt of the Court's orders on the application for his removal, which you are required to submit in the form herein prescribed.

3. The magistrates will submit separate statements of convicts sentenced by the session judges or commissioners, and by the Nizamut Adawlut, according to the following forms, A, B, and C.

4. Statement A will be prepared and submitted to this Court after the expiration of 30, but within the period of 45, days, from the end of the month in which the sentences were passed. The magistrate will be careful not to include in the same statement convicts sentenced at the jail deliveries of different months.

5. In the event of the issue of a warrant including a sentence of banishment being suspended in any case, under the rule contained in the 6th clause of Section IV., Regulation IX. 1831, the

* This paragraph was added by the Western Court.

magistrate will submit a statement in form B, within 15 days after the receipt of the warrant.

6. Statement C will be prepared and submitted within 15 days from the receipt by the magistrate of the warrant of the session judge or commissioner, for carrying into effect the sentence of the Nizamut Adawlut.

7. Whenever a magistrate may have occasion, in consequence of the crowded state of his jail, to apply for permission to remove convicts not sentenced to banishment to another district, he will be pleased to submit statements in form as similar to these as possible, keeping the prisoners sentenced by the session judges or commissioner, separate from those sentenced by the Nizamut Adawlut.

FORM A.

Statement of Convicts sentenced by the Session Judge or Commissioner, without reference to the Nizamut Adawlut,, to imprisonment in banishment at a jail delivery of ————, for the month of ————, 183—.

1	2	3	4	5	6	7	8
No.	Names of convicts.	Caste.	Age.	Crime.	No of each convict in the jail delivery statement No. 1.	Date of sentence of session judge or commissioner.	Sentence.

FORM B.

Statement of Convicts sentenced by the Session Judge or Commissioner, without reference to the Nizamut Adawlut, to imprisonment in banishment, at a jail delivery of ————, for the month of ————, 183—.

1	2	3	4	5	6	7	8	9
No.	Names of convicts	Caste.	Age.	Crime.	No. of each convict in the jail delivery statement No. 1.	Date of sentence of session judge or commissioner.	Date of receipt by the magistrate of the warrant of the session judge or commissioner.	Sentence.

FORM C.

Statement of Convicts sentenced by the Nizamut Adawlut to temporary imprisonment in banishment, or to perpetual imprisonment in the jail at Alipore, or transportation beyond Sea.

1	2	3	4	5	6	7	8
No.	Names of convicts.	Caste	Age.	Crime.	Date of sentence of Nizamut Adawlut.	Date of receipt of warrant of session judge or commissioner for carrying the sentence into execution.	Sentence.

TO THE CIVIL AND CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 27th November, 1835.

No. 184.

Requiring the judicial authorities to number all letters dispatched from their offices.

Calling attention to the Circular Order of the 27th Feb. 1812, regarding the manner in which miscellaneous references are to be made.

As the practice of numbering letters, which obtains in the offices of the Secretaries to Government, in this office, and in some of the offices in the interior, is not universally adopted, and as it has been found, where it obtains, useful in facilitating references to letters, without the necessity of recapitulating the subject of them, I am directed by the Court to request that you will, from the commencement of the ensuing year, number all that may be dispatched from your office, in one continued series, from the commencement to the close of the year.

2. I am further directed to call your attention to the rule contained in the first paragraph of the Circular Order of the 27th February, 1812, (No. 32 Vol. I, of the Circulars of the Sudder Dewainy Adawlut) addressed to the provincial courts of appeal and circuit. From a neglect of this rule, the Court have of late had frequent occasion to return miscellaneous references. All papers in the native languages, (not being proceedings in pending cases, or in reply to processes of the Court, which are required by the Circular Orders of 20th April and 25th June 1801, Nos. 9 and 10 Vol. I., to be submitted with certificates,) should each be accompanied by an English letter, specifying briefly the contents, [which should be corroborated and borne out by the papers accompanying it,] and the particular point or points in which the orders or opinion of the Court are required.

3. This applies particularly to applications from civil judges for permission to review their judgments. Such applications should not be made unless the judge has fully satisfied himself that a review is

necessary for the ends of justice, and the grounds on which he has come to that conclusion should be distinctly stated in the letter. If, for instance, the plea be the discovery of new matter or evidence which was not within the knowledge of the party, or could not be adduced by him at the time when judgment was passed, the manner in which the new matter was discovered, and the cause of the inability of the party to produce the evidence in proper time, with the proof of the fact, should be clearly detailed, as well as the effect which the new matter or evidence would have in impeaching the propriety of the judgment. It is not intended by the foregoing remark to define all the grounds on which a review may be admitted, but to show the nature of the information required by the Court, to enable them to judge of the necessity or otherwise of a compliance with the recommendation.

TO THE COMMISSIONERS OF CIRCUIT, MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 13th December, 1835.

No. 186.

The provisions of Section V., Regulation VII. 1819, not applicable to the enforcement of contracts for furnishing hackeries and bullocks under engagements to indigo planters.

DOUBTS appearing to be entertained as to whether the provisions of Section V, Regulation VII. 1819, are applicable to the enforcement of contracts for furnishing hackeries and bullocks under engagements to indigo planters, I am directed to inform you that it has been ruled by the Courts of Nizamut Adawlut, that the provisions of the Regulation quoted are not applicable to such contracts*.

TO THE CRIMINAL COURTS, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 24th December, 1835.

No. 187.

Explanations to be furnished by the civil surgeons and magistrates, whenever the deaths among the prisoners exceed one per cent. per mensem.

I AM directed by the Court to forward for your information and guidance, the accompanying copy of a letter addressed on the 20th ultimo to the Secretary to the Medical Board, and of that officer's reply dated the 27th ultimo, on the subject of the explanations to be furnished in future of the mortality among the prisoners confined in the jails.

2. The commissioners, and session judges to whose districts the provisions of Act VII. of 1835, have been extended, will require the magistrates and joint-magistrates in charge of jails and the civil sur-

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* See No. 197, Vol. II.

geons to submit explanations when the number of deaths exceeds one per cent. per mensem. When prisoners may be employed on the roads of the district, who are, when sick, sent into the zillah jail-hospital, they should be included in the monthly statement No. 5, and in the half-yearly report No. 24, with a note showing how many are brought back at night to the zillah jail, and how many are cantoned in the district, and under whose authority the latter are worked.

Copy of a Letter from the Register of the Presidency Nizamut Adawlut to the Secretary to the Medical Board, under date the 20th November, 1835.

I am directed by the Court to forward to you the accompanying copy of a circular letter, addressed by their order on the 13th September, 1822, to the courts of circuit, directing them to call on the magistrates to explain the causes of mortality when the number of deaths in the jail of any district exceed 5 in one month.

2. Instead of this fixed number, which has no reference to the number of prisoners confined in the jail, the Court think it would be more satisfactory to fix a certain rate per cent. as the limit beyond which it should be imperative on the magistrate and civil surgeon to furnish an explanation respecting the causes of the increased mortality. They therefore direct me to request that the Board will favor them with their opinion as to what, in an ordinary year, might be considered, through the different seasons, a fair proportion of deaths among 100 prisoners of all descriptions confined in the jails of the Bengal Presidency.

Copy of a Letter from the Secretary to the Medical Board to the Register of the Presidency Nizamut Adawlut under date the 27th November, 1835.

I am directed by the Medical Board to acknowledge the receipt of your letter dated the 20th instant, with its annexed document, relative to the mortality in jail hospitals.

2. In reply, the Board beg you will acquaint the Court of Sudder Nizamut, that in their opinion the Medical officers in charge of jails might be called on for an explanation, or special report, whenever the mortality during any one month may exceed one per cent.

3. Six per cent. per annum, the Board are inclined to think, would be a high rate of mortality in jails generally, but as explanation would not of course be required except in cases in which the mortality exceeded the ordinary rate, the Board are inclined to think that the rate of one per cent. per mensem may be judiciously adopted.

TO COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

No. 191. *Lower and Western Provinces, 15th January, 1836.*

When trials are referred to or called for by the Nizamut Adawlut, copies of the proceedings of the session judge or commissioner and the original proceedings of the magistrate must be submitted.

SEVERAL applications having lately been made to the Court for the return of proceedings in criminal trials, referred to or called for by them, I am directed to request your attention to Section II, Regulation X. 1799, re-enacted for the Ceded Provinces by Section XLI. Regulation VII. 1803, and to desire that whenever you may hereafter have occasion to refer a trial for the orders of the Nizamut Adawlut, as well as in cases called for by the Court, you will submit copies only of your own proceedings, returning the original for record in your office.

2. The magistrate's proceedings, which are always returned with a copy of the Court's sentence in the case, will continue to be submitted in original as heretofore; due regard being had to the rules contained in the Circular Orders of the 16th July, 1830, paragraph 6, and 3rd June, 1831, (Nos. 54 and 84 of this Volume.)

NOTE.—See No. 84 of this vol.

TO THE SESSION JUDGES, LOWER AND WESTERN PROVINCES.

No. 193. *Lower and Western Provinces, 12th February, 1836.*

Session judges before availing themselves of leave of absence should prepare statements of prisoners convicted and acquitted at the sessions held by themselves.

INSTANCES having occurred of assistants in charge of the office of session judge forwarding statements of prisoners punished without reference, or acquitted by the session judge, with the columns of "explanation and remarks" left blank, in consequence of the absence of the session judge on leave, the Court direct that in future the session judges will, in all possible cases, prepare the statements before they avail themselves of their leave, or furnish the assistant with a certificate of the cause of their inability to do so, to be submitted with the statements.

TO THE CIVIL AND CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

No. 194. *Western Provinces, 4th March, and Lower Provinces, 20th May, 1836.*

Circulating extract from a letter of the Hon'ble Court of Directors, defining the

I AM directed by the Court to transmit for your information and guidance, the accompanying copies of a letter and of its enclosure from the Secretary to the Government of Agra in the Judicial Department to the register of the Court of Sudder Dewanny and Nizamut Adawlut at Allahabad, under date the 24th February last.

Copy of a Letter from the Secretary to the Government of Agra to the Officiating Register of the Sudder Dewanny Adawlut at Allahabad, under date the 24th February, 1836.

cases in which a demand ought to be made for the surrender of refugees, and regarding the cognizance of civil claims against independent chiefs.

I am directed by the Honorable the Governor to transmit to you, for the information and guidance of the Court, and of the officers subordinate to their authority, the annexed extract (paragraphs 32 to 36) from a letter from the Honorable the Court of Directors, No. 19, dated 27th May, 1835, defining the cases in which a demand ought to be made for the surrender of refugees, and regarding the cognizance of civil claims against independent chiefs.

Extract from a Letter from the Honorable the Court of Directors, No. 19, *dated the 27th May*, 1835.

PARA. 32. You appear to us to have taken, on the whole, a sound view of these questions on the subject of the mutual surrender of fugitives. "The rule," you say, "which it is the wish of the Supreme Government to establish, is, to confine our requisitions for the surrender of refugees, and our compliance with those of our neighbours, to the case of heinous offenders, such as murderers, highway robbers, &c., leaving the privilege of asylum inviolate as regards debtors, defaulters, and civil and petty offenders of every kind; and the same rule ought of course to be observed, where we have occasion to interfere to regulate the intercourse of different native states between each other." Your local agents, guided by the spirit of these instructions, will be entrusted with a certain discretion as to the particular cases, or classes of cases, in which requisitions for the surrender of criminals shall be made or complied with. The feelings of the particular native government, the character of its institutions, and the general equity or oppressiveness of its rule, may often require to be adverted to in the determination of such questions. But the practice, whatever it be, should, unless there be very strong reasons to the contrary, be strictly reciprocal.

33. Your instructions to Mr. Hodgson, occasioned by the case of the stamp darogah, supposed to have fled into Nepaul, were consistent with the above observations, and have our approbation.

34. We have, on former occasions, intimated to you our opinion, that, except under peculiar circumstances, it is no less unadvisable to claim from other states our own revenue defaulters than to surrender theirs. We consider the abandonment of their native villages by the established cultivators as a sure indication of over-assessment or of oppression, demanding the early interference of the local European authorities.

35. The non-surrender of revenue defaulters is, in point of fact, a check against the continuance of any long period of such over-assessment and oppression.

36. With regard to the interference, whether of our tribunals, or of our political officers, in civil cases against subjects of independent

chiefs, you have adopted the sound principle, that the complainant must be left to seek justice from the legitimate superior of the party against whom his claims preferred, unless that party be resident or possess property within our territories. It was no less proper to interdict our officers fom taking cognizance of civil claims preferred against independent chiefs, whether by their own subjects or by others, or of cases of any description between independent chiefs and persons residing or possessing property in their dominions. Interference may sometimes be unavoidable, in consequence of general mal-administration ; but it seldom can be justified in individual cases, unless where the sufferer is entitled to our protection by some positive engagement.

TO THE CIVIL AND CRIMINAL AUTHORITIES, WESTERN PROVINCES.

Western Provinces, 2nd April, 1836.

No. 195.

Declaring the Baiza Baee and her followers, while resident in the Company's territories, amenable to laws and regulations of Government, civil and criminal.

I AM directed to transmit, for your information and guidance, the accompanying copy of a letter from the Secretary to Government in the Judicial Department under date the 25th ultimo, notifying that the Honorable the Lieutenant-Governor has been pleased to determine that her Highness the Baiza Baee and her followers shall be considered amenable to the laws and regulations of government, civil and criminal, during the period of her residence in the Company's territories.

Copy of a Letter from the Secretary to the Lieutenant-Governor, Western Provinces, to the Officiating Register of the Court of Sudder Dewanny and Nizamut Adawlut at Allahabad, dated the 25th March, 1836.

I am directed to communicate to you, for the information and guidance of the Court of Sudder Dewanny and Nizamut Adawlut, that the Honorable the Lieutenant-Governor has been pleased to resolve that her Highness the Baiza Baee and her followers, while residing in our territories, are to be considered amenable to our laws, civil and criminal. A communication to this effect was made from the Political Department on the 12th instant, to Captain D. Ross, Assistant Resident of Gwalior with the Baiza Baee.

TO THE COMMISSIONERS OF CIRCUIT, MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 20th May, 1836. No. 197.

The provisions of Section V, Regulation VII 1819, applicable to the driver of a hackery and cattle, his own property, who engages therewith to perform certain work, and wilfully neglects or refuses to fulfil his engagement.

In continuation of my letter of the 18th December last, (No. 186 of this volume,) I am directed by the Court to inform you that the provisions of Section 5, Regulation VII. 1819, are considered applicable to the driver of a hackery and cattle, which are his own property, who engages therewith to perform certain work, and wilfully neglects or refuses to fulfil his engagement.

with to perform certain work, and refuses tofulfil his engagement

NOTE —See No 186 of this vol.

TO THE CIVIL AND SESSION JUDGES, LOWER AND WESTERN PROVINCES

Lower and Western Provinces, 22nd July, 1836. No 202.

Judges applying for leave of absence enjoined strictly to conform to the Circular Order 4th January, 1811, which requires that their applications shall be accompanied, with a statement business pending before them.

CONSIDLRABLE inconvenience having been experienced from civil and session judges quitting their stations on leave of absence without stating the extent and nature of the business pending before them, I am directed by the Court to desire that you will strictly conform to the rule prescribed by the Ccircular Order of the 4th January, 1811, (No. 25, volume I) which requires that every application for leave of absence shall be accompanied by a statement of business pending before the officer making it, in all departments.

TO THE MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 23rd September, 1836. No. 204.

In applications for the removal of prisoners sentenced to transportation or banishment, the names of their fathers are to be inserted.

WITH a view to facilitate references in this office, I am directed by the Court to request that in submitting applications for the removal of convicts under sentence of transportation or imprisonment in banishment, agreeably to the rules laid down in the circular order of the 20th November, 1835, (No 183 of this volume,) you will invariably insert in the statements thereby required, the name of each prisoner's father.

TO THE MAGISTRATES AND JOINT MAGISTRATES LOWER AND WESTERN PROVINCES.

No. 207.

Lower and Western Provinces, 14th October, 1836.

Requiring the magistrates to furnish all prisoners with blankets during the cold season.

THE Court having reason to believe that it is the practice in some districts to restrict the issue of blankets to those prisoners, whose remaining term of imprisonment exceeds six months, direct me to inform you that all prisoners in confinement during the cold season should be furnished with blankets ; but prisoners, confined for short periods, when discharged, should be required to give them up. The returned blankets, unless rendered unfit for use, should be re-issued to other prisoners in similar predicament. The Court also direct me to observe that blankets should invariably be issued on or before the 15th October.

TO THE CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

No. 211.

Lower and Western Provinces, 28th October, 1836.

In trials for forgery, embezzlement, and the like, all written documents produced before the court of session judge or commissioner should be entered in the calendar of commitment.

THE Court, deeming it desirable that the calendar of commitment, in cases of forgery, embezzlement, and the like, should contain a list of all the written documents produced before the court of the session judge or commissioner, as evidence for or against the prisoner, are pleased to direct, that on all future occasions an accurate list of them be therein recorded and submitted to the session judge.

TO THE CIVIL AND SESSION JUDGES, MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

No. 212.

Lower and Western Provinces, 4th November, 1836.

Prescribing form of certificate for the submission of proceedings giving information to the Court, or soliciting orders in cases in which no precept is to be answered.

WITH a view to secure uniformity in respect to the form of communications to the Court, connected with their precepts not requiring returns, but in which the zillah judge may wish to communicate to the Court some information or remarks, or in which further instructions may be requisite, I am directed by the Court of Sudder Dewanny and Nizamut Adawlut to transmit to you the accompanying form (No. 9) for adoption whenever you may find it necessary to make references to them, connected with the precepts in question.

FORM.

No. 9. *Certificate.*

To the Register of the Court of Sudder Dewanny (or Nizamut) Adawlut.

Fort William (or Allahabad)

With reference to the precept of the ——— Adawlut, not requiring a return, dated the — of ——, conveying an extract of the Court's proceedings of the — of ——, held before Mr. ———, in the case noted in the margin,* I hereby certify the accompanying extract from my proceedings of the — of ———. (*Here briefly state the object of the reference.*)

* —— *versus* ——

Given under my hand and the seal of the Court, this ——— day of ——— 183—.

——— *Adawlut,* } A. B.
The — of —— 183—. } *Judge,* (or as the case may be.)

TO THE CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 25th November, 1836. No. 214.

Regarding the provision of carriage for troops on the line of march and when otherwise required for the public service.

I AM directed to transmit to you, for your information and guidance, the accompanying copy of a letter addressed by order of the Court of Nizamut Adawlut for the Agra Presidency under this date to the officiating commissioner of circuit of the 2nd or Agra division, respecting the provision of carriage for troops on the line of march, and when otherwise required for the public service.

Copy of a Letter from the Register of the Nizamut Adawlut, North-Western Provinces, to the Officiating Commissioner of Circuit for the 2nd, or Agra Division, dated 25th November, 1836.

The Court have again had before them your letter under date the 6th September last and its enclosures, respecting the provision of carriage for troops on the line of march, and when otherwise required for the public service.

2. The following would appear to be the points on which you are desirous of obtaining the opinion of the Court.

First.—Whether the latter part of Clause III, Section I, Regulation XI. 1806, is to be considered as superseded by Regulation VI. 1825?

Second.—What description of carriage may be seized for the use of troops on the line of march?

Third.—Whether in cases of emergency the officers of government may seize carriage for the transport of rum or other supplies required for military purposes, or impress men for the department of public works?

3. In reply to your first question, I am directed to communicate to you the opinion of the Court that the latter part of Clause 1, Section III. Regulation XI. 1806, has not been superseded by Regulation VI. 1825, which, as observed by you, merely confers additional powers on the revenue authorities, leaving the provisions of the former enactment, in regard to the assistance which the police officers are required to render, when applied to in such cases, exactly as they were.

4. With respect to your second question, I am directed to state that as the authority vested in the public officers of government by Clause 1, Section III. Regulation XI. 1806, for providing carriage for the use of troops on the line of march, is of a general nature, while the restrictions contained in Section VIII. of that Regulation apply only to officers not commanding nor proceeding with a corps or detachment of troops, or any other person travelling within any part of the Company's territories, either on the public service or his private affairs, the Court are of opinion that, under the provisions of the clause of the section first quoted, every description of carriage of the nature therein referred to, whether kept for private use or for hire, is liable to be seized for the purpose above-mentioned, with exception to begarees, coolies, &c., the compulsory exaction of whose services is expressly prohibited by Regulation III. 1820. I am directed however to add, that carriage kept expressly for hire should invariably be taken in the first instance, while that retained for private use should only be pressed in cases of emergency.

5. On your third question, I am desired to communicate to you the opinion of the Court in the negative on both points involved therein, provided of course, as regards the former, that the supplies alluded to are not proceeding with a body of troops, and required for their use on the line of march.

6. A copy of this letter has been circulated under this date for the information and guidance of the commissioners of circuit, magistrates, and joint magistrates.

TO THE CIVIL AND CRIMINAL AUTHORITIES, LOWER AND WESTERN PROVINCES.

Lower Provinces, 16th Dec. 1836, and Western Provinces, 20th Jan. 1837.

No. 216.

Regarding the annual revision of the securities of native offi-

I AM directed by the Court to forward to you, for your information and guidance, the accompanying extract, paragraphs 4 and 5, of their resolution of this date on the revision of the security of treasurers and other officers entrusted with public money for 1835.

Extract from the Resolutions of the Courts of Sudder Dewanny and Nizamut Adawlut, under date the 16th December, 1836.

PARA. 4. The officers who are required to report on the securities of their subordinates have omitted generally to submit their report with punctuality, and very few have given any distinct opinion as to their validity or otherwise. The Court desire that they be called upon to submit the report of the revision of the securities required to be made by the Circular Order of 23rd September, 1831, (No. 34 of volume II. C. O. Sudder Dewanny Adawlut,) for 1836, on or before the 1st February, 1837; and that they insert at the foot of the form prescribed by that circular, (which for the convenience of record, should be uniformly engrossed on a sheet of foolscap paper,) the following certificate; cers entrusted with public money.

"Certified that I have revised the securities of the officers abovementioned, and that I consider them good and sufficient.

(Signed) A. B.

"*Judge, (or magistrate, as the case may be.")*

5. The attention of the judicial officers will be called to the Circular Order of the 3rd July, 1835, (No. 171 of this volume,) and they will be informed, that should they neglect to furnish this indispensable information, and any embezzlement take place, their conduct must be reported to Government.

ORDERED:

That paragraphs 4 and 5 of this Resolution be forwarded to the judges, magistrates, and independent joint-magistrates for their information and guidance.

TO THE COMMISSIONERS OF CIRCUIT, MAGISTRATES AND JOINT MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 6th January, 1837. No. 218.

THE Court having observed that the applications submitted to them for the release of prisoners who may have lost their sight since the date of their confinement, or who, from other causes, may be considered proper objects of mercy, are frequently defective in not containing the information necessary to enable them to judge of the propriety or otherwise of complying with the recommendation, have been pleased to prescribe the accompanying form, which they request that you will carefully observe in all future applications of this nature. Prescribing the form in which applications are to be made for the release of blind or infirm prisoners, who are considered fit objects of mercy.

2. With reference to the importance necessarily attached by the Court, in cases of the foregoing description, to the certificate of the civil surgeon, they have deemed it proper to require that the opinion of that officer should be given in the form of a declaration, and inserted by the medical officers in column 10 of the prescribed statement. The magistrate will fill up column 11 with his opinion and such observations as the case may appear to him to call for, particularly as regards the general conduct and character of the prisoner recommended for release; and forward the statement to the commissioner of the division, who, provided that he agree with the magistrate and civil surgeon, will enter his opinion and remarks in column 12, and submit the original statement for the consideration and orders of the Court, retaining a copy of it for record in his own office.

3. The magistrate will also accompany the application with a copy of the warrant under which the prisoner is confined.

FORM.

Statement of a prisoner recommended for release in consequence of bodily infirmity from the Commissioner of Circuit for the —— Division for the Magistracy of ——

1	2	3	4	5	6	7	8	9
Name of prisoner.	Sex.	Age.	Caste and profession.	Crime.	Sentence and date.	By what authority passed.	Unexpired period.	Nature of complaint in consequence of which the prisoner is recommended for release.

On the Reverse.

10	11	12
Declaration of the Civil Surgeon.	Opinion and remarks by Magistrate.	Do. by Commissioner of Circuit.

NOTE.—See No. 52 of this Vol.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 27th January, 1837.

No. 219.

Officers submitting explanations of subordinates to state whether they consider them satisfactory.

I AM directed by the Court of Nizamut Adawlut to request, that in forwarding any explanation from the magistrates or joint magistrates within your jurisdiction, you will invariably state whether you consider the same to be sufficient and satisfactory or otherwise.

TO THE MAGISTRATES AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 27th January, 1837.

No. 220.

Prescribing rules for the examining and recording the examinations of witnesses and others in the civil and criminal courts.

I AM directed by the Court to call your immediate attention to the Regulations and Circular Orders noted in the margin.

Sec. 16, Reg. IX. 1793.
Sec. 16, Reg. VI. 1803.
Sec. 7, Reg. IV. 1797.
Sec. 18, Reg. VII. 1803.
Cir. Or., 28th Dec. 1796, No. 11, Vol. I.
Cir. Or, 12th Dec. 1809, No. 58, Vol. I.

2. The Court direct that every witness or prisoner examined by a session judge be examined exclusively and entirely in the presence of that officer, and that the same rule be considered applicable to the principal sudder ameens, sudder ameens, and other native judicial officers entrusted with criminal jurisdiction.

3. I am directed by the Court to state that very serious notice will be taken of any wilful inattention to this rule which may be brought to their notice, and you are particularly enjoined to enforce the due observance of this order on the part of your subordinate officers.

4. The Court are aware that a pressure of public business may occasionally oblige the civil judges, the magistrates, joint-magistrates and their assistants to empower their native officers to record the depositions of parties in cases coming before them; but they direct that such proceedings be confined entirely to matters of minor importance, and that in all instances the depositions be taken *in the presence* of the European officer presiding.

5. The Circular Order of the 28th December, 1796, does not appear on all occasions to be regularly attended to. The Court therefore direct that the principal sudder ameens, and sudder ameens, and other native judicial officers entrusted with criminal jurisdiction, be directed, at the end of each deposition or examination, to certify in

the Persian language, in the mode indicated in the note*, that the same has been taken in their presence.

6. The same rule will also be considered applicable to the magistrates and other European officers, but in cases of a heinous nature, and in all cases wherein a commitment may be made to the sessions court, the Court desire that the deposition or examination may be certified in the English language and in the mode noted below†.

7. I am further directed to inform you that under the express orders of Government you will consider yourself strictly prohibited in future from taking down the examination of parties or witnesses in any other language than that in which it is delivered. Persian translations will, as heretofore, be annexed to the original proceedings in the event of the trial being referred to, or called for, by this Court. The above prohibition will of course be considered to extend to all the courts and tribunals over which you may exercise your jurisdiction.

TO THE SESSION JUDGES AND COMMISSIONERS OF CIRCUIT, LOWER AND WESTERN PROVINCES.

No. 221.

Lower and Western Provinces, 27th January, 1837.

When a prisoner is sentenced to imprisonment for five years and upwards, labour cannot be commuted to a fine.

THE Court having had before them a case in which a session judge passed a sentence of seven years' imprisonment with labour commutable to a fine, under the provisions of Section 3, Regulation II. of 1834, have directed me to inform you that a sentence of this nature is not warranted by the Regulation in question. Whenever you may consider the offence of which a prisoner is convicted to demand a sentence of imprisonment for five years and upwards, you are not authorised to commute the labour to a fine.

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* منکه صدر امین اعلی (یا صدر امین یا مولوي یا پنڈت) عدالت ضلع فلان ام امروز رو بروی من زبان بندي فلان گواه (یا اظهار مدعي یا مدعی علیه) گرفته شد تحریرا فی التاریخ فلان سنه فلان العبد

† For a witness or prisoner "Taken before me, (or taken before A. B. serishtadar, and duly explained in my presence,) this 1st day of November, 1836. —C. D. Magistrate."

TO THE MAGISTRATES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 17th March, 1837.

No. 225.

The Register of warrants prescribed by Circular Order 15th May, 1835, is to be kept up in English.

IT having been brought to the notice of the Court that some of the magistrates are in the habit of keeping up the register of warrants, prescribed by the Circular Order of the 15th May, 1835, (No. 167 of this volume) in the Persian language only, I am desired by the Court to inform you that the orders in question were not intended to supersede that part of the Circular Order of the 1st May, 1829, (No. 23 of this volume) which directs that such registers shall be kept up in the English language; and to request that the magistrates of those districts in which the practice above adverted to may have been adopted, will immediately prepare a register in the English language, and in the form prescribed by the Circular Order of the 15th May, 1835, of all unexecuted sentences passed subsequently to the date of that order, and that it may be carefully kept up for the future.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 12th May, 1837.

No. 229.

Circulating an extract from a letter of the Court of Directors regarding the distribution of business by the heads of offices to their subordinates.

I AM directed by the Court to transmit, for your information and guidance, the accompanying copies of a letter from the officiating secretary to the Honorable the Lieutenant Governor addressed to the officiating register of Nizamut Adawlut of Western Provinces under date the 1st ultimo, and of its annexed extract of a despatch from the Honorable the Court of Directors, and to request that you will communicate the same to the magistrates and joint-magistrates of your division (or district) and enjoin their strict attention to the orders therein contained.

Copy of a Letter from the Officiating Secretary to the Lieutenant Governor to the Officiating Register Nizamut Adawlut N. W. Provinces, dated 1st April, 1837.

With reference to paragraph 33, of Mr. Secretary Macsween's letter dated the 14th January, 1835, I am directed to transmit, for the information and guidance of the Court of Nizamut Adawlut, the annexed extract, paragraph 7, from a dispatch of the Honorable the Court of Directors, No. 7, dated the 21st September last. The Court are required to enforce to the utmost a compliance with these instructions.

Extract, paragraph 7, from a dispatch of the Honorable the Court of Directors, No. 7 of 1836, *dated* 21*st September*, 1836.

6. We shall be happy to learn that the following instructions have been duly acted upon. "In conclusion I am directed to request the particular attention of the Court (of Nizamut Adawlut) to the important object of inducing the magistrates to make a judicious distribution of their work, among the subordinate officers European and native. The value of the magistrate's service must be more dependent on the skill and judgment with which he directs and controls the acts of all subordinate officers than upon the work he can himself perform. The time of any officer exercising civil or criminal jurisdiction ought not to be employed in details, which can be well performed by the ministerial officers. No business that can be well performed by the uncovenanted officers invested with criminal jurisdiction ought to occupy the time of the covenanted servants, except for the purpose of directing, aiding and controlling their proceedings. No business ought to be performed by the head of the office which can be well done by his subordinate officers, covenanted or uncovenanted, if his attending to such duties will interfere with his more important duties of directing and controling every branch of his office, and of aiding, instructing and encouraging each in the proper performance of the particular duties assigned to him.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES, LOWER AND WESTERN PROVINCES.

Lower Provinces, 19*th May, and Western Provinces*, 7*th July*, 1837.

No. 231.

Session Judges vested with the powers of commissioners under Act VII. 1835 are required to visit the criminal jails of the sudder stations of the district once a month.

I AM directed by the Court to forward to you, for your information and guidance, the accompanying copy of a letter written by the order of the Court of Nizamut Adawlut for the Lower Provinces on the 21st April last to the Secretary to the Government of Bengal, and of that officer's reply dated the 9th May, approving of the suggestion of the Court, that the duty of visiting the jails of the sudder station of each district once every month, be performed by the session judges, vested with the powers of commissioners under Act VII. 1835.

Copy of a Letter from the Register of the Presidency Nizamut Adawlut to the Secretary to the Government of Bengal, dated 21*st April*, 1837.

I am directed by the Court to request that you will lay before the Right Honorable the Governor of Bengal, the accompanying copy of a letter from the session judge of Mymensing and its English enclo-

sure, and to suggest that the duty of visiting the jails of the sudder station of each district once every month be imposed upon the session judges, vested with the powers of commissioners under Act VII. 1835.

Copy of a Letter from the Secretary to the Government of Bengal to the Register of the Presidency Nizamut Adawlut, dated the 9th May, 1837.

In reply to your letter dated the 21st ultimo with its enclosures, I am directed to inform you that the Right Honorable the Governor of Bengal approves the suggestion of the Court, that the duty of visiting the jails of the sudder station of each district once every month, be imposed upon the session judges vested with the powers of commissioners under Act VII. 1835. The Court are requested to issue the necessary orders accordingly.

TO THE SESSION JUDGES IN THE LOWER PROVINCES.

Lower Provinces, 19th May, 1837. No. 233.

Defining the duties of session judges vested with the powers of commissioners under Act VII. 1835.

I AM directed by the Court to forward to you the accompanying extract from their proceedings of this day's date, regarding the duties of a session judge under Act VII. of 1835.

Extract from the Proceedings of the Presidency Nizamut Adawlut under date the 19th May, 1837.

The Court having had under consideration letters from several session judges, soliciting instructions regarding the nature and extent of the powers transferred to the session judges by Act VII. 1835, record the following observations.

2. The duties of a session judge in a district to which Act VII. 1835 has been extended, consist at present in trying all commitments made by the magistrate; in hearing and disposing of all appeals preferred from orders passed by the magistrate in criminal trials, including the whole progress of a case from the commencement to the date of final sentence; and in exercising a general superintendence and control over the proceedings of the magistrate in the administration of criminal justice.

3. The duty of visiting the jail every month, and of issuing to the magistrate such orders as may appear necessary for the better treatment and accommodation of the prisoners is also to be performed by the session judge. Section 63, Regulation IX. 1793, is also extended to the session judges.

4. The session judges are moreover carefully to revise the monthly statements submitted by the magistrate, previous to forwarding them to this Court, agreeably to the Circular Orders of the 12th December, 1834, and 15th January, 1836, (Nos. 155 and 190 of this volume.) The duties detailed in paragraphs 5, 6 and 7 of Mr. Secretary Macsween's letter of the 10th November, 1834, circulated on the 12th December, 1834, are now to be performed by the session judges.

5. The duties of a commissioner in a district to which Act. VII. 1835 has been extended, are now confined to the superintendence of the police, (vide Section 7, Regulation I. 1829 ;) to the hearing of appeals from the orders passed by the magistrate under Regulation XV. 1824, (vide Sections 3 and 4, Regulation II. 1829 ;) to control the appointment and removal of police officers, and ministerial officers, (vide Section 8, Regulation XI. 1831, and Circular Order 14th August, 1835, No. 177 of this volume.) The commissioner has also a general control over all cases of a miscellaneous nature other than criminal trials, (vide Section 3, Regulation IX. 1831 ;) he must also hold special sessions when necessary under Clause 2, Section 13, Regulation VII. 1831 ; and he should also make the periodical visits to the sudder stations of his division as prescribed by Section 7 of the last mentioned regulation.

6. No other points of importance at present occur to the Court as requiring notice. Should any further instructions however be required, the Court request that the commissioners and session judges will apply for the same ; acting in the mean time in such a manner, as may in their judgment appear to be best calculated to benefit the public service.

ORDERED :

That a copy of this resolution be communicated to the several session judges in the Lower Provinces, with a request that they will furnish the magistrates and joint-magistrates with a copy of the same. A copy will also be sent to the commissioner of the 19th division.

TO THE MAGISTRATES, LOWER AND WESTERN PROVINCES*.

No. 234. *Lower and Western Provinces, 23rd June,* 1837.

Prescribing forms of letter from the magistrate notifying

In continuation of the Court's Circular Order of the 22nd June, 1832, (No. 109 of this volume,) I am directed by the Court to request that, whenever you commit a prisoner for trial, you will inti-

* A copy of this Circular was sent to the several commissioners and session judges in the Lower Provinces.

mate the same to the session judge, agreeably to the annexed form marked A. ing a commitment to the session judges,

2. The session judge will be requested to intimate to you, agreeably to the form marked B., the day on which he may be able to take up the case; and the Court trust that by adopting this mode of communication, the delay that has been observed in some districts in taking up the commitments, will, for the future, be avoided. and from the latter stating when he will proceed with the trial.

FORM A.

To the Session Judge.

SIR,

I beg leave to report to you that I have this day committed A. B. and C. to the sessions court on a charge of murder.

2. The prosecutor and the witnesses both for the prosecution and the defence, can be in attendance on the 10th instant, or any day after that date that you may be pleased to fix.

3. I request you will have the goodness to intimate to me on what day the parties shall be directed to attend on your court.

I am, Sir,

Your obedient Servant,

1*st July*, 1837. A. B., *Magistrate.*

FORM B.

To the Magistrate of ———.

SIR,

In reply to your letter of the 1st instant, I beg to inform you that I shall be ready to proceed to the trial of the prisoners on the 11th instant, and request the favor of your causing all the persons concerned to be in attendance at the sessions court-house at 10 o'clock A. M. on that day.

I am, Sir,

Your obedient humble servant,

1837. C. D., *Session Judge.*

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 7th July 1837. No 235.

I AM directed by the Court to request that whenever you may require lithographic forms of any description, you will apply direct to the superintendent of the government press for them, and thereby prevent the delay and unnecessary correspondence consequent upon applications made through this Court. Applications for lithographic forms to be made direct to the press. The prescrib-

ed forms not to be altered without authority.

2. With regard to those reports and statements which you are required to forward to this Court, those forms only are to be indented for, which have been approved of by the Court; and no alterations should, on any account, be made in any form directed by the Sudder Court to be used, except with their express permission.

TO THE MAGISTRATES IN THE LOWER PROVINCES.

No. 236.

Lower Provinces, 27th July, 1837.

The Mahomedan law officers to be employed, when at leisure, in the investigation of such criminal cases as are not likely to be ultimately referred to the sessions court.

By the Court's Circular Order, No. 192,* of the 5th February, 1836, it was intimated that government had resolved to prohibit the future appointment of the same person to hold the office of Mahomeden law officer, and principal sudder ameen, sudder ameen, or moonsiff.

2. The government have since conveyed to the Court their wish, that the leisure which the Mahomedan law officers will enjoy, when not holding the office of civil judge, should be devoted to the investigation of unimportant criminal cases.

3. Such being the case, I am directed by the Court to acquaint you that you are at liberty to employ those officers in the manner indicated.

4. The Court, however, desire me to impress upon you, that an injudicious employment of the Mahomedan law officers in trying criminal cases may involve the anomaly of the same individual being required to sit as an assessor, in cases in which he has already conducted the primary inquiry, and has consequently prejudged the subject to be decided.

5. To admit of the services of those officers being rendered available in lightening your files, and at the same time to avoid the incongruity which might result from the want of a proper discrimination of the cases to be tried by them, the Court request that you will make over to those officers, such cases only, as may, on a cursory examination, appear to you not likely to be ultimately referred to the sessions court.

NOTE.—See No. 45 of this Vol.

* Omitted; for reasons, see Appendix.

TO THE COMMISSIONERS OF CIRCUIT, SESSION JUDGES, MAGISTRATES AND JOINT MAGISTRATES.

Lower and Western Provinces, 14th July, 1837. No. 238.

Chowkeedars, &c. guilty of neglect of duty, not liable, under Regulation II. 1834, to 12 months' imprisonment in lieu of corporal punishment.

It having been brought to the notice of the Court that some of the magistrates in these provinces consider themselves competent, under the provisions of Clause 2, Section 2, Regulation II. of 1834, to sentence chowkeedars, and other officers of that class, found guilty of neglect of duty, to 12 months' imprisonment in lieu of corporal punishment, I am directed to inform you that it has been ruled by both Courts that as burkundauzes, chowkeedars, &c. were not formerly liable for the offences above-mentioned to stripes in addition to imprisonment, the provisions of Regulation II. of 1834, in prohibiting the infliction of corporal punishment, do not authorise any addition to the period of imprisonment, to which the officers in question were liable previous to the issue of that enactment; and* the Court request therefore that you will carefully abstain from passing such sentences.

TO THE COMMISSIONERS OF CIRCUIT, SESSION JUDGES, MAGISTRATES AND JOINT MAGISTRATES.

Lower and Western Provinces, 14th July, 1837. No. 239.

Instructions relative to the competency of magistrates to interfere in cases which involve the right of parents and others to the guardianship of children.

I am directed by the Court to transmit, for your information and guidance, the accompanying copy of a letter from the Secretary to the Government of India, under date the 12th ultimo, addressed to the Officiating Secretary to the Lieutenant-Governor, N. W. Provinces, together with a copy of the letter from the magistrate of Agra therein referred to, relative to the competency of a magistrate to interfere with a view to uphold and enforce the right of a parent or other person to the care and guardianship of children.

Copy of a Letter from the Secretary to the Government of India to the officiating Secretary to the Lieutenant-Governor, N. W. Provinces, dated 12th June, 1837.

I am desired by the Right Honorable the Governor General in Council to acknowledge the receipt of your letter, No. 1933, dated the 25th ultimo, submitting correspondence relative to a difference of opinion between the Sudder Court at Allahabad and the Sudder

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* This last Clause was not communicated to the commissioners and session judges.

Court at Calcutta, on a reference from the Agra magistrate, as to the competency of a magistrate to interfere and enforce the right of a parent or other person to the care and guardianship of children.

2. In reply I am directed to observe, that it must be exceedingly difficult to lay down any general rule applicable to all cases of this nature which may arise; but the Governor General in Council is not disposed to concur entirely in the opinion expressed by the Sudder Court for the N. W. Provinces, that a magistrate is not competent to exercise any interference in cases of the nature of those described by Mr. Mansel. That Officer asks in the first place: "Is any power vested in the magistrate under the Regulations to compel a wife who has abandoned the society of her husband, or who has been abandoned by her husband, to restore to the husband the children begotten during the course of the marriage?"

3. This question involves two distinct cases, and it does not appear to His Lordship in Council that in either, it would be necessarily just and proper that the mother, at least up to a certain age, should be deprived of the custody of her children. The Sudder Court for the Lower Provinces, in pronouncing their decision upon this question, have assumed (what does not seem to be implied in the question), that the wife was living in adultery. This might no doubt have material influence on the decision; but in neither of the cases propounded by Mr. Mansel in his first question, and especially not in the second case, can that fact be fairly presumed.

4. Mr. Mansel's second proposition is in the following terms: "Is any power vested in a magistrate to compel a party who, in the assumed character of guardian, next of kin, and the like, may have enticed away or carried off any infants from another party, (under whose charge or in whose possession they were,) to restore the infants to the prosecutor or into the court of the magistrate, that the magistrate may decide to whom the the charge of the infant legally belongs?"

5. For the correct solution of this question also, regard must be had to the particular circumstances of each case. It would seem to fall peculiarly within the legitimate province of a magistrate's duty, under the provisions of Regulation VII. 1819, to interfere summarily with a view to the restoration of children who may have been enticed or carried away. At the same time, there may be circumstances in particular cases, (such, for instance, as the fact of the party who was deprived of the possession having no natural or legal right to the charge of the infant,) which might render such interference inexpedient and objectionable.

6. On the whole, His Lordship in Council is inclined to think, that until some definite rules are prescribed for the guidance of the magistrates in these cases, the safest course will be to refrain from attempting to issue any general instructions, and to leave the several magistrates to exercise a sound discretion to exert their official authority or not, according as the propriety of one or the other course may be indicated by the circumstances of each case

Copy of a Letter from the Magistrate of Agra to the Acting Commissioner of Circuit at Furruckabad, dated 3rd January, 1837.

I beg to request that you will lay the following points of law before the Nizamut Adawlut for the opinion of that Court.

1. Is any power vested in a magistrate under the Regulations to compel a wife who has abandoned the society of her husband, or who has been abandoned by her husband, to restore to the husband the children begotten during the course of the marriage?

2. Is any power vested in a magistrate to compel a party who, in the assumed character of guardian, next of kin, and the like, may have enticed away or carried off any infants from another party, (under whose charge or in whose possession they were,) to restore the infants to the prosecutor or into the court of the magistrate, that the magistrate may decide to whom the charge of the infants legally belongs?

I may add that the practice of this magistrate's court has long been in favor of interference in each case alluded to, but the letter of the Regulations nowhere warrants such practice, nor is it supported by the analogy of the powers vested in justices of the peace in England under the existing constitution of the judicature of that country. I have thought it therefore desirable to refer the two questions, that in future the magistrate, at a station where, owing to the increasing resort of Anglo-Indians, the applications for the exercise of such powers seem likely to be frequent, may be armed with a positive construction of the law of the Regulations by the highest judicial authority.

TO THE SESSION JUDGES, MAGISTRATES, AND JOINT MAGISTRATES, THE THUGGEE JOINT MAGISTRATES AND SESSION JUDGE, AND THE THUGGEE SUPERINTENDENTS.

Lower and Western Provinces, 11th August, 1837. No. 241.

The Oordoo language to be used in proceedings connected with charges for Thuggee.

I AM directed by the Court to communicate to you, for your information and guidance, a copy of the orders of Government, dated the 18th ultimo, prescribing, in reply to a reference made by the Court on the subject, the language in which the depositions of persons accused of being concerned in cases of Thuggee, and all other proceedings connected with that class of trials, should be taken down and written.

Copy of a Letter from the Secretary to the Government of Bengal, to the Officiating Register of the Presidency Nizamut Adawlut, dated 18th July, 1837.

I am directed by the Right Honorable the Governor of Bengal to acknowledge the receipt of your letter, No. 1882, dated the 30th ultimo, with its enclosures, and to request that you will inform the Court in reply, that on consideration of all the circumstances of the case, especially of the passage quoted by Mr. Ravenshaw from Captain Lowis' letter, his Lordship thinks it most desirable, as well as most consistent with the spirit of the Honorable Court's orders, that the Oordoo—Hindustanee, which is certainly the language most universally prevalent throughout India, and with which even th Thugs of Lower Bengal must, from their wandering habits and practice of conversing with travellers from all parts of the country, be well acquainted, should be used by all the officers under their jurisdiction, employed in the investigation of charges for Thuggee.

TO THE SESSION JUDGES, LOWER PROVINCES*.

Lower Provinces, 22nd September, 1837.

No. 246.

Forwarding the instructions communicated to Magistrates, &c. as to the mode of procuring the conviction of Thug approvers, and directing the offer of pardon and the prisoner's acceptance of the same to be recorded.

I AM directed to transmit to you, for your information and guidance, a copy of a Circular† this day addressed to the Magistrates and Joint Magistrates, and Deputy Superintendents for the suppression of thuggee, exercising the powers of Joint Magistrate in the provinces of Bengal, Behar and Orissa, and to state that the Court of Nizamut Adawlut do not consider it necessary to furnish you with any particular instructions for the trial of Thug prisoners who may be brought before you under the provisions of Act No. XXX. of 1836, as it will be sufficient for you to attend to the established forms laid down for your guidance in holding criminal trials.

2. You will be careful to affix to the record of each trial the tender of exemption from the punishment of death and transportation beyond seas, which the Magistrate or Joint Magistrate will have made to the prisoner and the prisoner's acceptance thereof.

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* The "Instructions" only were circulated by the Nizamut Adawlut for the Western Provinces to the Magistrates, Joint Magistrates, Session Judges and Commissioners subject to their control, with a letter, dated 25th August, 1837.

† Circular Order No. 247 of this Vol.

TO THE MAGISTRATES AND JOINT MAGISTRATES AND THE DEPUTY SUPERINTENDENTS FOR THE SUPPRESSION OF THUGGEE VESTED WITH THE POWERS OF JOINT MAGISTRATE IN THE PROVINCES OF BENGAL, BEHAR AND ORISSA*.

Lower Provinces, 22nd September, 1837.

No. 247.

A qualified pardon to be offered to proposed Thug approvers, and the conviction of such persons to be obtained before employing them in procuring the conviction of their accomplices.

An Act having been passed (No. XIX. of 1837,) to render legal the evidence of convicts against their accomplices in crime, I am directed by the Court to communicate to you, for your guidance, a copy of the instructions which have been drafted with that view, and have been approved of by the Governor General in Council, and to request that in acting upon them you will observe the following rules.

2. Whenever you consider it necessary to obtain the evidence of a proposed approver, with a view to convict his accomplices, you will, in the first instance, place on record a faithful narrative of his life of crime, noting every Thuggee in which he has been employed, the names of the Thugs who have been engaged in each expedition, their respective crimes and occupations in each journey, and generally will enter into as full a detail as possible, informing the person who offers himself as an approver, that for any wilful omission on his part he will forfeit the qualified pardon which you are authorised to hold out to him. After this unreserved confession, you will examine a few Thug approvers as to his being a real Thug, and will then commit him to be tried by the Session Judge of the district, on a charge of being a Thug under Act No. XXX. 1836, granting him, under the instructions of Government referred to in Mr. Secretary Macnaghten's letter, No. 227, of the 19th June last, an exemption from the punishment of death or transportation beyond seas. In all cases you should thus obtain the condemnation of the prisoner before you admit him as a Thug approver.

3. The object of this prosecution, I am directed to observe, is to ensure the legal detention and imprisonment of the approvers for life.

INSTRUCTIONS.

You are hereby authorised to offer mercy, in the name of the Government, to any Thug from whom you may have reason to expect that useful information may be procured, on condition that he makes a full and ingenuous confession.

The promise which you are authorised to make is not a promise of entire pardon. His Lordship in Council has before him such strong

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* The "Instructions" only were circulated by the Nizamut Adawlut for the Western Provinces to the Magistrates, Joint Magistrates, Session Judges and Commissioners subject to their control, with a letter, dated 25th August, 1837.

proofs that offenders of this class are irreclaimable, that he cannot consent to let any of them loose on society, however long the period of their confinement may have been, however unexceptionable their demeanour during that confinement may have been, or whatever may have been the value of the information given by them. You are therefore distinctly to understand that you are in no case, without a special permission from Government, to hold out to any Thug any hope that he will ever be set at liberty. The mercy which you are authorised to promise extends only to exemption from capital punishment and transportation, and to such indulgences in confinement as may be compatible with the safe keeping of the prisoner. Every promise of this sort which you may give, the Government will hold itself bound to perform, even though it should appear that in giving such a promise you have not exercised a sound discretion.

The promises which you are authorised to make may be made either to persons who have been convicted, or to persons who have not yet been tried.

In the former case the punishment will, on your report that the convict has made a confession which you consider as full and ingenuous, be commuted by Government according to the engagements which you may have made.

An Act has been framed providing that no person shall be incompetent to be a witness in any case by reason of a conviction for any offence; when this Act shall be passed a convicted Thug will be competent to give evidence against his accomplices.

In general the promises which you make, under the authority now conferred upon you, will be made for the purpose of obtaining information from Thugs who have not yet been convicted; His Lordship in Council is of opinion that every such case should be followed up by the regular trial and conviction of the informer.

Nothing short of a sentence pronounced by a Court of Justice and recorded on the proceedings of that Court can be sufficient ground for detaining any person in perpetual imprisonment. If a Thug approver who has never been tried were after ten or fifteen years of confinement to demand his liberty, it might be exceedingly difficult to refuse his application. The evidence on which he might have been convicted at the time of his seizure may be no longer forthcoming. The public functionaries who received his confession may be dead or may have left the country. It may be notorious that he is lying in prison as a Thug. But to detain in prison for life a man who has never been tried and who demands a trial, merely on the ground that he is a notorious malefactor, is a course so objectionable, so utterly irreconcileable with all the most important general principles of criminal jurisprudence, that nothing but absolute necessity would induce His Lordship in Council to resort to it.

His Lordship in Council therefore directs, that in every case, in which you may think fit to promise mercy, in the name of the Government, to a Thug who has not been convicted, you will commit him for trial before the Session Judge on the charge of having been

guilty of the offence made punishable by Act No. XXX. of 1836. You will explain to him that if he pleads guilty to that minor offence, he will not be put on his trial for any capital crime which he may have committed as a Thug.

His conviction will, under such circumstances, be a matter of course. It will give scarcely any trouble to the court by which he may be tried. It will, under the Act before adverted to, leave him a competent witness. And he will be detained for life in confinement, under an authority which can never be questioned, and in a strictly regular manner.

VOL. III.

TO THE MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER AND WESTERN PROVINCES*.

Lower Provinces, 15th September, and Western Provinces, 10th November, 1837.

No. 1.

In what cases corporal punishment can be inflicted on a convict under sentence of labour in irons.

THERE being reason to believe that it is considered allowable to punish with stripes the crime of escaping from jail, or from the custody of a guard, such acts being supposed to amount to a "breach of jail discipline," the Court of Nizamut Adawlut direct me to inform you, that corporal punishment can be inflicted on a convict under sentence of labour in irons, only when such punishment may be considered absolutely necessary at the moment, to quell a riot or disturbance among the prisoners, or in cases of violent resistance to the jail officers, or any other refractory conduct on the part of a prisoner, such for instance as a contumacious refusal to work, where the punishment may follow so immediately upon the offence as to be calculated, by the force of example, to deter others from the commission of like acts.

NOTE.—Modified by No. 235, Vol. III.

TO THE COMMISSIONERS OF CIRCUIT, CIVIL JUDGES, AND MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER AND NORTH-WESTERN PROVINCES.

Western Provinces, 17th November, and Lower Provinces, 15th December, 1837.

No. 3.

Communicating observations regarding the custody and disposal of unclaimed property, and property of persons dying intestate.

IT having been brought to the notice of the Court that considerable difference of opinion and practice prevails as to the manner of disposing of "lawaris" property, I am directed to communicate to you the following observations on the subject.

2. The Court observe that the difficulty appears to arise from the magistrates confounding "unclaimed property" with the "property of persons dying intestate" (lawaris.) With regard to the for-

* This and the two following Circulars were omitted in their proper places.

mer, I am directed to refer you to Clause 16, Section 16, Regulation XX. 1817, which expressly declares that it shall be considered the property of Government; and that whatever property of that description may come into the hands of the darogahs of police, shall be forwarded to the magistrate of the district: as respects such property therefore, the disposal of it clearly rests with the magistrate, subject, of course, to the control of the commissioner and Government, without any interference on the part of the civil court.

3. With regard to the custody and disposal, on the other hand, of the property of persons dying intestate (lawaris,) the Court direct me to observe that Clause 7, Section 16, Regulation III. 1803,* contains a specific provision, and declares that should no claim be preferred to it for the space of twelve months, an inventory of the property, together with a report of the circumstances of the case, shall be submitted by the judge, to the Governor General in Council for his orders. Whenever therefore any property, of that description, may come into the hands of a magistrate, he should forward it immediately to the judge of the district, to be dealt with in the manner directed in the Section of the Regulation above quoted.

NOTE.—See No. 57, Vol. IV.

TO THE COMMISSIONERS OF CIRCUIT, SESSION JUDGES, AND MAGISTRATES AND JOINT MAGISTRATE IN THE LOWER AND WESTERN PROVINCES.

Western Provinces, 15th December, 1837
Lower Provinces, and 5th January, 1838.

No. 4.

Transmitting for adoption the form of a register of fines, authorising any necessary additional checks, and calling attention to certain particulars.

THE Court, having had under their consideration the returns to the Circular dated the 30th December, 1836, are pleased to direct the adoption, by yourself and the courts subordinate to you, of the accompanying form of a general register of fines.

2. The object of the Court in prescribing the use of this form is to provide against the misappropriation, on the part of any of your ministerial officers, of monies paid into court: but it is not intended to prevent the adoption of any additional checks which you may consider necessary.

3. The Court request that due attention be paid to the entry in the register of all fines immediately they are imposed,—to the issuing of perwannahs to the nazir to realize the amount of such fines,—and to the examination of the register at the commencement of every month, by the head clerk, serishtadar, nazir, and treasurer of your court.

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* NOTE.—Section 7, Reg. V. 1799, for Bengal.

Register of Fines imposed and realized by the Magistrate of Zillah ———.
by the Judge of Zillah ———.

Date.	No. of fine.	Name of persons fined.	On what account fined.	Amount of fine.	Amount realized.	Date.	Signature of Nazir.	Signature of Treasurer.	Signature of Magistrate.	If not realized or if remitted, ground to be entered here.
				Rupees.	Rupees.					
October 23rd,	206	Ramdhun,	Assault, ..	5	5	October 23rd,	D. E.	F. G.	A. B. C.	
Ditto,.....	207	Shureeut,	Contumacy,	10	..	....	....	...	....	Sent to jail for 10 days in lieu of fine.
Ditto,.....	208	Sheik Edu,	Affray,....	50	50					
Ditto,.....	209	Tumeez-oodeen,	Neglect of duty,....	25	25	....	....	....	..	Fine re-paid, having been remitted by the superintendent of police.

Abstract.—Fines imposed during the month of 100
Realized, ... 50
Remitted,..... .. .. 30 —— 80
Under realization by Nazir,.... 20

TO THE SEVERAL COMMISSIONERS OF CIRCUIT, SESSION JUDGES, AND MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER AND WESTERN PROVINCES.

Western Provinces, 8th December, 1837, *and Lower Provinces, 12th January,* 1838.

No. 5.

On the competency of a session judge to comply with a magistrate's application for the original or copies of the former officer's proceedings in a trial committed to the sessions.

A QUESTION having lately arisen as to the competency of a session judge to comply with the application of a magistrate to be furnished with the original, or copies of the former officer's proceedings in a trial committed to the sessions, I am directed by the Court to inform you that if in particular cases of the above description any special grounds should exist, rendering it desirable, in the opinion of the magistrate, that he should see any part of the evidence taken before the sessions court, either to enable him to follow up his inquiries in the case, or for any other purpose connected with the administration of criminal justice, or of the police of his district, he should state those grounds fully in a report to the session judge, who, on a consideration thereof, will determine on the propriety or otherwise of complying with the application, either in the former case, by transmitting, for the magistrate's perusal, transcripts of the depositions required by that officer, or by allowing an officer from his court to attend for the purpose of taking copies of the same.

TO THE SUPERINTENDENT OF POLICE, COMMISSIONERS, SESSION JUDGES, AND MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 2nd February, 1838.

No. 7.

Orders on the subject of certain Circulars, issued in consequence of the re-establishment of the office of superintendent of police.

I AM directed by the Court to transmit to you, for your information and guidance, the annexed extract from their proceedings of this date.

Extract from the Proceedings of the Nizamut Adawlut, under date the 2nd February, 1838.

With reference to Act XXIV. 1837, re-establishing the office of superintendent of police, the Court have had under consideration the several Circular Orders noted in the margin, and having been in communication with Mr. F. C. Smith, the superintendent of police, on this subject, have been pleased to issue the following orders, which will be

No.	48,	April 2nd,	1808.
,,	264,	August 16th,	1822.
,,	64,	December 10th,	1830.
,,	93,	February 10th,	1832.
,,	68,	December 17th,	1830.
,,	94,	February 10th,	1832.
,,	114,	July 27th,	1832.
,,	115,	August 3rd,	1832.
,,	119,	August 24th,	1832.
,,	136,	April 6th,	1833.

No. 138, August 16th, 1833.
,, 155, December 12th, 1834.
,, 190, January 15th, 1836.

immediately carried into effect in every district over which the superintendent of police has jurisdiction.

1. Circular Order, No. 48, April 2nd, 1808. The session judges will now perform the duties prescribed in this Circular.

2. Circular Order, No. 264, August 16th, 1822. The superintendent of police will direct the magistrates to rescind, alter or modify any circular instructions connected with the police issued by those functionaries. The session judges will not interfere in any way with the exercise of this power.

3. The following Circular Orders are hereby rescinded, *viz.* No. 64, 10th December, 1830 ; No. 93, 10th February, 1832 ; No. 114, 27th July, 1832 ; No. 119, 24th August, 1832 ; No. 136, 6th April, 1833 ; No. 138, 16th August, 1833.

4. Circular Order, No. 68, December 17th, 1830, is hereby extended to the office of superintendent of police. In addition to the report to Government required by Clause 2, Section 14, Regulation XI. 1806, the magistrate will report to the superintendent of police and the session judge whenever he may find it necessary to call out the military.

5. Circular Order, No. 94, February 10th, 1832, is also rescinded. It being the desire of Government that the magistrates should be encouraged often to visit the interior of their districts, it is considered unnecessary that they should report* every instance of their performing or being about to perform so essential a part of their duty.

6. Circular Order, No. 115, August 3rd, 1832, is hereby amended. The session judges will report direct to the Nizamut Adawlut whenever they may be prevented for the period of one month from holding a jail delivery of their respective districts.

7. The several duties assigned by the Circular Order, No, 155, December 12th, 1834 and Circular Order, No. 190, January 15th, 1836, to the commissioners of circuit will now be performed by the session judges. With regard to the statements connected with the police, the magistrates will be guided by the instructions they may receive from the superintendent.

ORDERED :

That a copy of this Resolution be sent to the superintendent of police, and to each session judge, magistrate and joint magistrate, in the Lower Provinces, with instructions to alter the Circular Order books accordingly. A copy will also be transmitted to the commissioners for their information.

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* See C. O. No. 10, of this Vol.

TO THE COMMISSIONERS OF CIRCUIT AND SESSION JUDGES IN THE LOWER AND WESTERN PRONINCES.

Western Provinces, 2nd March, and Lower Provinces, 23rd March, 1838.

No. 8.

Transmitting copy of letter from officiating secretary to the Governor General, requesting it may be explained to the several judges, that during the Dusserah and Mohurrum vacations their court must never be closed for the despatch of criminal business, except on days stated.

I AM directed by the Court to transmit for your information and guidance the accompanying copy of a letter from the Officiating Secretary to the Right Hon'ble the Governor General to the Register of the Sudder Dewanny and Nizamut Adawlut of the Western Provinces under date the 20th ultimo, and to request that you will strictly attend to the orders therein contained.

2. The present instructions are of course to be considered as superseding the latter part of the Court's Circular Letter under date the 22nd November, 1833, which declares that it shall not be necessary for the session judges to take up during the Mohurrum or Dusserah vacation any cases, which may have been committed for trial since the commencement of it.

Copy of a Letter from the Officiating Secretary to the Governor General, N. W. Provinces, to the Register of the Sudder Dewanny and Nizamut Adawlut of that Presidency, dated 20th February, 1838.

* Letter from judge of Mynpooree, dated 6th February, 1838.

Ditto to ditto ditto, dated 20th February, 1838.

With reference to the correspondence noted in the margin,* copies of which are annexed for the information of the Court, I am directed by the Right Hon'ble the Governor General to request, that they will explain to the several judges subject to their authority, that during the Dusserah and Mohurrum vacations, their Court must never be closed for the despatch of criminal business, except on those days only, when a total cessation from all business is necessary and usual.

2. The Court are accordingly authorised to issue a Circular Order, directing the observance of this as a standing rule in the several subordinate courts ; and they are requested to see that it is carefully attended to on occasions like the one under notice.

TO THE MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 1st June, 1838.

No. 10.

Magistrates to report to the superintendent of police, whenever they have

WITH reference to paragraph 5 of the Court's Resolutions of the 2nd February, by which magistrates were exempted from the duty of reporting their visits to the interior of their districts, I am now directed, under instructions from the Government, to request that,

occasion to proceed into the Motussil.

whenever you have occasion to proceed into the Mofussil, you will report to the superintendent of police the date of your departure and that of your return to the Sudder station, as well as the cause of your departure.

NOTE.—See para 5, C. O. No. 7 of this Vol.

TO THE SESSION JUDGES, THE COMMISSIONER OF THE 19TH DIVISION, AND THE GOVERNOR GENERAL'S AGENT AT HAZAREEBAUGH.

Lower Provinces, 15th June, 1838.

No. 11.

The special session judge only to try commitments made by assistants to the general superintendent for the suppression of Thuggee.

UNDER instructions from the Government, I am directed by the Court to request that you will abstain from trying any commitments made by the assistants to the general superintendent for the suppression of Thuggee, who are stationed at Chupra, Moorshedabad, and Dacca, leaving such cases to be disposed of by the session judge specially appointed for the purpose.

TO THE SESSION JUDGES, MAGISTRATES AND JOINT MAGISTRATES, THE THUGGEE JOINT MAGISTRATES AND SESSION JUDGE, AND THE GENERAL SUPERINTENDENT OF OPERATIONS FOR THE SUPPRESSION OF THUGGEE.

Lower Provinces, 7th September, 1838.

No. 16.

The depositions and confessions of Thugs should be taken down in the language best understood by them, and the general superintendent furnished with Oordoo translations

UNDER the sanction of Government I am directed by the Court to inform you, in modification of the instructions contained in the Circular Order No. 241, 11th August, 1837, Vol. II. that the depositions and confessions of Thugs should be taken down in the language best understood by them, and the general superintendent of operations for the suppression of Thuggee furnished with translations in Oordoo of any documents, written in the Bengallee or other language, which he may require.

TO THE SEVERAL SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 2nd November, 1838, *and Western Provinces, 14th July,* 1837.

No. 17.

Report to be made to Government, whenever the

IN pursuance of instructions from the Hon'ble the Lieutenant Governor, I am directed by the Court to request, that whenever you may be prevented from taking up a case, which may have occurred within

your jurisdiction as session judge, in consequence of your having made the commitment as civil judge or magistrate, or from any other cause, you will immediately report the circumstance for the information and orders of the Hon'ble the Lieutenant Governor, through the secretary in the judicial department, with a view to His Honor making such special provision for the trial of the case as he may deem proper. You will, at the same time, state to which of the neighbouring tribunals the case in question could be most conveniently referred, with advertence to the residence of the parties concerned.

session judges may be prevented from taking up a case, in consequence of their having made the commitment in their civil capacity, or from any other cause.

2. The foregoing instructions are to be considered as superseding* the orders contained in paragraph 2 of the Court's Circular letter of the 29th May, 1835.†

NOTE.—See Act I. 1848.

TO THE SESSION JUDGES AND COMMISSIONER OF THE 19TH DIVISION.

Lower and Western Provinces, 18th January, 1839.

No. 18.

Circulating a letter of the superintendent of police, Lower Provinces, with extract from a minute of Sir Thomas Munro, regarding confessions extorted by the police.

I AM directed by the Court to transmit to you, for your information, the accompanying copy of a circular which has been issued by the superintendent of police, Lower Provinces, to the magistrates within his jurisdiction.

To the Magistrates in the Lower Provinces.

SIR,

I have found during my late tour a considerable difference of opinion in regard to extorted confessions, which some magistrates, and a few session judges, consider to be very common, and others disbelieve the charge altogether. As much evil to the people may be done by a systematic disbelief, as well as much injury to the police, by a too ready reliance on such accusations, I have the honor to send for your information an extract from a minute written by Sir Thomas Munro, when Governor of Madras, in which the subject is fully and admirably discussed in all its bearings.

I am, &c.

(Signed) F. C. SMITH,

Superintendent of Police, Lower Provinces.

FORT WILLIAM,
OFFICE OF SUPT. OF POLICE, L. P.
The 14th December, 1838.

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* The orders in the paragraph referred to are superseded only so far as regards the *court*, by which commitments made by the civil judge are to be tried.

† A copy of the foregoing Circular was forwarded on the same date (Nov. 2nd) to the magistrates and joint magistrates in the Lower Provinces.

Extract from a Minute recorded by the late Sir Thomas Munro, Governor of Madras.

13. The Hon'ble Court have adverted at considerable length and with just severity upon the conduct of the native police officers in extorting confessions from prisoners ; and they specify some very atrocious cases, among which are the murder of a man by a peon, in endeavouring to extort a confession, and the maiming a prisoner, by a potail, in torturing him for the same object. In both these cases however it is satisfactory to know that the offenders were convicted and punished—one capitally, and the other with two years' imprisonment and hard laborr. The judge who reports, fears that cases of forced confession are too common, even among the officers of Government, but observes that the proof is difficult. When violence really takes place the proof cannot be difficult ; but I believe that in a great proportion of the cases where it is charged none has been used. It is much more general in Malabar and Canara than in other zillahs ; and the difference is probably owing to the people of Malabar and Canara, still retaining much of the turbulent and vindictive character which they acquired while divided into petty states, and little restrained by any regular authority from exercising acts of outrage on each other.

14. It is no doubt too certain that many irregularities are used in obtaining confessions, and that in some instances atrocious acts are committed ; but when we consider the great number of prisoners apprehended, and the habits of the people themselves, always accustomed to compulsion where there is suspicion, how difficult it is to eradicate such habits, and how small the proportion of cases in which violence has been used is to the whole mass, the number of these acts is hardly greater than was to be expected, and is every day diminishing. The prohibition against forced confessions is known to all native police officers ; and it seems extraordinary, that they should even employ force, for they know that they have much to lose, and nothing to gain by such conduct ; but some of them, in spite of every injunction to the contrary, when they believe that a prisoner is guilty, think it right to extort a confession. Police officers in general, however, will not gratuitously expose themselves to a loss of place, and their families to ruin by such conduct. Prisoners are sometimes hurt by attempting to escape, and notorious offenders are sometimes roughly treated by the villagers who assist in securing them ; the marks thus caused are sometimes exhibited as evidence of extorted confession. Whereever there is proof of force having been used for such a purpose, the police officer should be invariably punished and dismissed from the service. But great caution is necessary in believing the accusation of force : it should always be very clearly established before it is entitled to credit. Police matters are so public that the charge of violence, when true, can hardly be concealed. There are two things in which there is constantly very great exaggeration—the number of persons concerned in a robbery,

and the number of extorted confessions: only a small part of the alleged cases of extorted confessions are ever substantiated. The circuit court say that the proof is difficult. I believe that when true, the proof is easy, and that the difficulty lies in by far the greater part being unfounded. The charge is easily made, and the effects of its receiving belief from the court of circuit is so generally known, that offenders very frequently bring it forward in some stage of the trial. It is a point which demands the greatest possible circumspection on the part of the magistrate. If he lets the person escape who has been guilty of extorting confession, he encourages one of the worst offences against the administration of justice. If he punishes the police officer charged with this offence, in only a very few instances on false evidence, he will effectually deter the whole body from the zealous exercise of their duty, and let loose a host of robbers upon the community. No number of zillah courts would prevent the excesses complained of among the native police; were we to double the number, it would have no effect in restraining them. They can only be checked and effectually put down by the vigilance of the magistrates; by never letting them pass unpunished; by the police officers finding from experience, that they never could gain any thing from the use of force, but would certainly suffer disgrace and punishment; and by time working a change in their habits.

15. The irregularities committed by the police are now much more difficult of concealment, than when the office of zillah judge and magistrate were united in one person, confined to a fixed station; and though too many of the police officers are still frequently guilty of such irregularities, yet the conduct of the great body of them is highly useful and meritorious, and its effects are becoming every day more evident in the increasing tranquillity of the country, and the gradual diminution of organized bands of robbers. The amelioration, though occasionally retarded by the misconduct of local officers, continues to advance, and is gradually diminishing the number of crimes.

TO THE SEVERAL CRIMINAL AUTHORITIES.

Lower Provinces, 8th March, 1839.

No. 19.

Magistrates incompetent to compel a wife to return to her husband.

CONSIDERABLE difference of opinion and practice appearing to prevail as to the competency of a magistrate to interfere with a view to restore a wife to her husband, on the application of the latter, contrary to her wishes, I am directed to inform you that it has been ruled by both the Courts of Nizamut Adawlut, that the magistrates are invested with no such authority, and that applications of the above nature should be preferred in the civil court in the form of a regular suit.*

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* A similar Circular was issued by the Nizamut Adawlut in the North Western Provinces, on the 20th January, 1837.

TO THE MAGISTRATES AND JOINT MAGISTRATES.

No. 20.

Lower and Western Provinces, 8th March, 1839.

The persons of convicts under sentence of transportation or banishment, to be accurately described, and burkundazes enjoined to compare the descriptive rolls with the convicts when relieving guard at the different stations.

It having been brought to the notice of the Court that the rule laid down in the Circular Order of the 10th April, 1801, No. 25, which directs that an accurate description of the persons of all convicts, sentenced to transportation, shall be inserted in the lists, which are required, under the Circular Order of the 3rd August, 1796,* to accompany the prisoners, is not strictly attended to, and that considerable difficulty is frequently experienced, in consequence, in identifying such convicts, especially on the occasion of the relief of the guards at the different stations on their journey to Allipore, I am directed to call your particular attention to the rule above quoted, and to request your careful observance of it.

2. I am also directed to request, that you will take care, that the descriptive rolls, which should be written in both the Hindustanee [or Bengallee in the Bengal districts] and Persian languages, as well as in English, are correctly drawn out, and that you will issue positive orders, that the guards on relieving each other carefully compare the same with the convicts.

3. The Court further direct, that you will consider the same rules applicable to prisoners, under sentence of banishment to other districts, either for life, or a term of years.

TO THE SEVERAL CRIMINAL AUTHORITIES.

No. 21.

Lower and Western Provinces, 30th March, 1839.

Instructions regarding register of warrants, certificates granted to prisoners, and endorsement of mitigated punishment on prisoner's warrants, designed to guard against the detention of convicts beyond the term of their sentence.

In continuation of the Court's Circular Order of the 15th May, 1835, No. 167, prescribing a new form of register of warrants of criminal sentences, I am directed to request that whenever the sentence passed on a prisoner may be mitigated, the magistrate as well as session judge, where the original sentence may have been passed by the latter officer, will immediately cause the name of the prisoner to be struck out, in red ink, from the register of the year, in which such original sentence would have terminated, and entered in the register of the year in which the mitigated sentence will expire, inserting in column 7 of the former register a memorandum of such mitigated sentence. The magistrate will, at the same time, recall the original certificate granted to the prisoner under the Circular Order of the 14th May, 1824, No. 292, and, on explaining to the prisoner the mitigated sentence passed upon him, will furnish him with a new certificate, specifying the period when the reduced term of imprisonment, awarded therein, will expire.

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* See No. 7, Vol. I.

2. The Court further direct that when the mitigation or remission of punishment may have been ordered by the Court of Nizamut Adawlut, the endorsement on the prisoner's warrant of such mitigation or remission shall be made in the vernacular language of the district, as well as in English.

3. The object of the present Circular being to prevent the possibility of any prisoner being detained in confinement beyond the period of his sentence, the Court will hold the heads of offices strictly responsible for the due observance of the same; and they direct me to add, that they will consider it their duty to take very serious notice of any want of proper attention to these rules which may come to their knowledge.

TO THE SESSION JUDGES, COMMISSIONERS 15TH AND 19TH DIVISIONS, GOVERNOR GENERAL'S AGENT, HAZAREEBAGH, COMMISSIONERS OF ASSAM, ARRACAN, AND TENASSERIM PROVINCES

Lower Provinces, 5th April, and Western Provinces, 6th May, 1839.

No. 22.

In referred trials, session judges to mention what punishment they consider adequate.

I AM directed by the Court to request that, in referring any trials for their final orders, you will specify the punishment which, in your opinion, would be adequate to the crime established against the prisoners.

NOTE.—See para. 11, C. O. No. 54, Vol. II.

TO THE MAGISTRATES AND JOINT MAGISTRATES.

Lower Provinces, 12th April, and Western Provinces, 6th May, 1839.

No. 23.

The term "Act" is used in Act II. 1839, in contradistinction to "Regulation."

WITH a view to prevent any misconception, I am directed by the Court to inform you that the term "Act" used in Act II. of 1839, is employed in contradistinction to the Regulations strictly so called, and that the provisions of that enactment are not intended to explain any thing contained in the Regulations on the subject of fines.*

* A copy of the above letter was on the same date circulated to the session judges.

TO THE SESSION JUDGES AND COMMISSIONERS OF 19TH DIVISION.

Lower Provinces, 10th May, and Western Provinces, 7th June, 1839.

No. 25.

The charge against the prisoner, taken verbatim from the roobukaree of commitment, to be written on the face of the futwa.

I AM desired to request that you will invariably note upon the copy of the futwa in each case, (submitted under the Circular Order No. 78, of the 4th February, 1831,) the specific charge upon which the prisoner has been committed to take his trial. The charge should be taken from the magistrate's roobukaree of commitment, without any alteration, and written upon the face of the futwa in the same language as the original.

TO THE SEVERAL CRIMINAL AUTHORITIES, REGULATION PROVINCES.

Lower Provinces, 23rd August, and Western Provinces, 6th December, 1839.

No. 29.

Appeals from the orders of magistrates regarding the management of ferries, lie to the superintendent of police.

WITH a view to remove doubts which may exist on the subject, I am directed by the Court to acquaint you that it has been ruled by the Courts of Nizamut Adawlut, that the acts of the magistrate in the management of ferries are subject to the control of the superintendent of police, and that all appeals from orders in such matters shall be received and disposed of exclusively by that authority.

NOTE.—See No. 39, Vol. III.

TO THE SEVERAL SESSION JUDGES, MAGISTRATES, AND JOINT MAGISTRATES IN THE NORTH-WESTERN PROVINCES, AND COMMISSIONERS OF SAUGOR AND KUMAON.

Western Provinces, 27th September, 1839.

No. 30.

Communicating a letter from Government to the commissioner for the suppression of dacoitee, (with form of certificate,) on the subject of a conditional pardon to dacoit approvers.

I AM directed by the Court to transmit to you, for your information and guidance, the accompanying copy of a letter from the Secretary to the Right Honorable the Governor General in the North-Western Provinces to the address of Major Sleeman, commissioner for the suppression of dacoity, dated 29th July last, and of the form of certificate therein alluded to, on the subject of a conditional offer of mercy, to the extent of exemption from the punishments of death and transportation beyond sea, to dacoit approvers.

No. 1889.

To Major W. H. SLEEMAN, *Commissioner for the Suppression of Dacoity, Moradabad.*

Sir,

Judicial Dept. I am directed to acknowledge the receipt of your letters Nos. 348 and 364, dated the 8th and 11th instant, with their enclosures; and in reply to inform you that the Right Hon'ble the Governor General authorises you to offer mercy, in the name of the Government, to any dacoit, from whom you may have reason to expect that useful information may be procured, on the condition described in the form of certificate appended to your letter of 8th instant.

2. Copies of this correspondence will be sent to the Court of Nizamut Adawlut for information.

I have the honor to be, &c.,

(Signed) F. CURRIE, *Secy. to the Right Hon'ble the Governor General in the N. W. Provinces*

Simla, *The 29th July*, 1839.

Form of Certificate proposed for Dacoit Approvers.

You are promised exemption from the punishments of death and transportation beyond seas for all past offences, and such reasonable indulgences as your services may seem to merit and may be compatible with your safe custody, on condition,—1st, that you make a full confession of all the dacoities in which you have been engaged; 2nd, that you mention truly the names of all your associates in crime, and assist to the utmost in your power in their arrest and conviction. If you act contrary to these conditions; conceal any of the circumstances of the dacoities in which you have been engaged; screen any of your friends or relations; attempt to escape; or accuse any innocent persons; you shall be considered to have thereby forfeited all claim to such exemption and indulgence.

TO THE SESSION JUDGES, MAGISTRATES AND JOINT MAGISTRATES.

Western and Lower Provinces, 11th October, 1839.

No. 31.

Female prisoners not to be subject to irons except for special reasons.

An instance having occured in which a sentence of imprisonment awarded against a female convict included the imposition of fetters, I am directed to acquaint you that it has been ruled by the Court that the subjection of female prisoners to irons being, for obvious reasons, improper, shall not in future be had recourse to, excepting in cases

where some special necessity may exist for their use, as a precautionary measure, such as by way of security to prevent escape.

2. You will be pleased carefully to act on this rule in future.

TO THE MAGISTRATES AND JOINT MAGISTRATES.

Lower Provinces, 1st November, 1839.

No. 33.

Peons not to exact tullubana when entrusted with perwannahs addressed to landholders on police or other matters.

It having been represented to the Government, that the peons who are entrusted with perwannahs addressed to landholders or their officers, for assistance to be rendered to the police on emergencies, or for other purposes, are in the habit of exacting tullubana from the parties, I am directed by the Court of Nizamut Adawlut to request that you will take immediate measures for the discontinuance of the abuse, should it have prevailed within your jurisdiction.

TO THE MAGISTRATES AND JOINT MAGISTRATES, AND TO THE PRINCIPAL ASSISTANTS OF HAZAREEBAGH, ASSAM, ARRACAN, AND TENASSERIM.

No. 34.

Western and Lower Provinces, 16th November, 1839.

Instructions regarding the course to be followed when Europeans are committed by magistrates in the Mofussil to take their trial before the Supreme Court.

In pursuance of instructions received from the Government, I am directed by the Court to transmit, for your information and guidance, the accompanying copy of papers regarding the course to be followed in cases, where Europeans in the Mofussil are charged with offences for which they will be tried in the Supreme Court, and to request your careful observance of the rule therein prescribed.

COPIES.

No. 2191 of 1839.

To the Officiating Secretary to the Government of India.

SIR,

Judicial Dept. With reference to your letter, dated the 7th of January last, No. 7, I am directed by the Honorable the Governor in Council to transmit, for the information of the Honorable the President in Council, copies of a letter from the acting advocate general, dated the 12th ultimo, and of a Circular this day issued to all the

magistrates under this presidency, directing them, in all cases where Europeans in the districts are charged with offences for which they will be tried in the Supreme Court, to forward the depositions to the Honorable Company's solicitor, in order that they may be advised of the evidence which should be brought forward in such cases.

I have the honor to be, &c.,

(Signed) L. R. REID,

Acting Chief Secretary to Government.

BOMBAY CASTLE,
22nd August, 1839.

No. 38 of 1839.

From the Acting Advocate General, dated 12th July, 1839.

SIR,

I have the honor to report to Government the result of cases tried at the present Criminal Sessions in the Supreme Court, in which Government prosecuted.

2. The first was that of Michael Dunn, a private in the 4th Dragoons, who was indicted for stabbing a Borah named Akapa, with intent to murder, or to maim, disfigure, or disable him. The prosecutor deposed that he was hawking goods near the quarters of the prisoner, when the latter beckoned to him, stating that he had some copper to sell. The prisoner then asked the Borah what money he had with him, and the Borah replied three rupees in pice, upon which the prisoner said he did not like his wife to see him selling the copper, but that if the Borah would walk on, he, the prisoner, would follow; the prisoner then took the Borah to the edge of the river at Kirkee, and waited for a very long time, pretending that he expected another soldier of the 3rd troop. After remaining there upwards of two hours the Borah said he would go, upon which the prisoner told him to stay, saying he would look for the soldier. The prisoner, after being absent about half an hour, suddenly returned and without saying a word stabbed the prosecutor over the hip about $2\frac{1}{2}$ inches in depth. The prisoner made no attempt to rob him, and, on the Borah crying out, ran off. This story seemed very improbable, and could scarcely in its details be true. Still however the fact remained that the Borah had been severely wounded by some one. The Borah made the best of his way to the sergeant major, and complained that he had been stabbed by a soldier whose name he did not know. The sergeant major sent another sergeant with the Borah, who said he could point out the man's bungalow. The Borah then took the sergeant to the bungalow of the prisoner, and pointed him out as the person who had wounded him. These facts occurring whilst the wound was still fresh and smarting, and when, therefore, every reason existed for believing the Borah would point out the

really guilty party, were proved by other parties. The case was further confirmed by a native woman in the service of the prisoner, who deposed that her master came home on that day about one o'clock in great heat and confusion, and instantly took off his shoes and hat and desired this woman to hide them. The prisoner called witnesses to his character, who gave him a very bad character. After retiring for some hours, the jury returned a virdict of "not guilty."

3. I am unwilling to pass over this case without drawing the attention of Government to the want of care that exists in the local investigation of offences committed by Europeans in the districts. Amongst the witnesses sent down on the present occasion were three women, one of them the prisoner's wife, who by law cannot be a witness to criminate her husband, and the other two to depose not to any thing within their own knowledge connected with the offence but to what they had been told by the prisoner's wife, and which, it is plain, could not be evidence that the facts so told were in themselves true.

4. The present season rendered it the more hard upon these persons (one had an infant in arms) that they should have been sent here from Kirkee to prove that they had seen nothing but had been told a great many things. In addition to which Government have to reimburse them their expenses, a very trifling sum no doubt.

5. The main cause of its so often happening, when Europeans are committed in the districts for trial in Bombay, that persons who can give no personal testimony are yet compelled to travel down as witnesses, arises, as far as my experience goes, from the magistrates making no distinction between hearsay and original evidence. Witnesses in the Supreme Court are allowed to speak to what they know only, and not to what they have been told by others; for many persons are told what is very untrue, and whilst on the one hand the communication has not been made on oath, on the other the Court has no opportunity of ascertaining what were the informant's means of knowledge.

6. I wish to be considered as casting no blame on Mr. Rudd, the magistrate, in this instance. He was investigating an offence under an Act of Parliament, and technical rules of evidence he can scarcely be expected to know.

7. But to avoid such things for the future, I take the liberty of suggesting that in all cases where Europeans in the distrcits are charged with offences for which they will be tried in the Supreme Court, the magistrate taking the depositions should be directed to forward them, if time will admit of it, to the Hon'ble Company's solicitor, who will at once be able to inform the magistrate what persons should be sent to Bombay, and whether the evidence collected is sufficient or not, and, if not, what further inquiries, and in what quarters, should be made.

8. The next case was that of Lewis Cribbs and Joseph Newton, who were charged by three indictments, with obtaining goods from

different persons on false pretences. On the first indictment Cribbs was proved to be a common swindler and was found guilty : Newton produced witnesses to character, and the evidence not being strong as to him, he was acquitted. On the second case Cribbs pleaded guilty, and though there was great reason to believe that Newton had been concerned in cheating, yet the witnesses failed in proving him guilty of the specific offence laid in the indictment, and he was, therefore, acquitted a second time. Feeling that I should experience the same difficulty in the third case in fixing Newton with being a party to the false pretences, I did not think it desirable to proceed further. Cribbs was sentenced to transportation for seven years.

I have the honor to be, &c.,

(Signed) WM. HOWARD

Acting Advocate General.

ADVOCATE GENERAL'S OFFICE, *Bombay, 12th July*, 1839.

CIRCULAR.

No. 2186 of 1839.

Judicial Department.

To all the Magistrates.

In transmitting, for your information and guidance, the accompanying copy of an extract, paragraphs 1 to 7, of a letter from the acting advocate general, dated 12th ultimo, I am directed by the Honorable the Governor in Council, in calling your particular attention to the suggestions contained in paragraphs 3 to 7, inclusive, to request that hereafter in all cases where Europeans in the districts are charged with offences for which they will be tried in the Supreme Court, you will, if time will admit of it, forward the depositions to the Hon'ble Company's solicitor, in order that you may receive the advice and suggestions of that officer on the evidence which is to be adduced at the trial.

I have the honor to be, &c.,

(Signed) L. R. REID,

Acting Chief Secretary.

BOMBAY CASTLE, *The 22nd August*, 1839.

TO THE SESSION JUDGES AND COMMISSIONERS OF CIRCUIT, WESTERN PROVINCES, AND THE COMMISSIONERS OF THE 16TH AND 19TH DIVISIONS, AND SESSION JUDGES OF CHITTAGONG AND CUTTACK, IN THE LOWER PROVINCES.

Western and Lower Provinces, 22nd November, 1839.

No. 35.

The orders of magistrates dismissing persons from their situations,—such orders not being part of a sentence passed in any criminal trial—appealable to the commissioners.

DOUBTS having been entertained in respect to what is the proper constituted tribunal of appeal for parties seeking redress from orders of magistrates dismissing them from their situations, such orders not being part of the sentence passed in any criminal trial, and considerable diversity of practice having obtained in consequence, appeals of the nature described, having in some districts been considered cognizable by the commissioner and in others by the session judge, I am directed to acquaint you that it has been ruled by the Government, upon a reference from the Court, that such appeals cannot be heard by the session judge, but lie, under the law, to the commissioner.

2. You will be pleased to regulate your future proceedings accordingly.

TO THE SEVERAL CRIMINAL AUTHORITIES.

Lower and Western Provinces, 6th January, 1840.

No. 37.

The terms to be employed in all criminal proceedings, in rendering the words "affray" and "riot."

I AM directed to communicate, for your information and guidance, the following rule established by the Court, fixing the proper corresponding phrase in the native language to express the English word "affray."

2. The Court observe that the translations of the Regulations of Government constitute no certain guide in the matter, great diversity of phraseology appearing to prevail in rendering the word in the various Regulations wherein it is used. With reference, however, to the most general acceptation, it appears to the Court that an affray in which both sides are in fault and liable to punishment for breach of the peace, is most generally expressed by the term "khanahjungee," and they remark that it is so rendered (indifferently with "hungamah purdazee") in the preamble of Regulation II. of 1823, which regards "affrays concerning land and arising from other causes." The term "hungamah" the Court consider rather to express a riot or tumultuous assembly, where one side alone is presumed to be offensive.

3. As the establishment of some fixed authoritative phraseology for general use and observance is conducive both to uniformity and the equitable administration of criminal justice, the Court are pleased to direct that for the future the word "affray" in all criminal proceedings shall be rendered "khanahjungee,"* and the term "hungamah"† be restricted to indicate a riot or tumultuous assembly.

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* In Bengalee "danga hungama." † The same in Bengalee.

TO THE SEVERAL CRIMINAL AUTHORITIES.

Lower and Western Provinces, 28th January, 1840.

No. 38.

Prescribing the mode of proceeding to be followed by an officer in charge of the current duties of a session judge's office, on receipt of an application for staying execution of any order of a magistrate against which an appeal has been lodged.

I AM directed to communicate to you the following rule established by the Court, prescribing the mode of proceeding to be followed by an officer in charge of the current duties of a session judge's office, on receipt of an application for staying execution of any order of a magistrate against which an appeal has been lodged.

2. On receipt of a petition of the nature described, the officer holding temporary charge of the session judge's office should immediately transmit a copy thereof, with a proceeding, to the magistrate's court, in order that that officer, being made acquainted with the purport of any application for staying execution of the order appealed against, which the petition of appeal may contain, may have the opportunity of exercising his discretion in regard to the suspension of such order, either with or without taking security, until the appeal can be brought to a hearing before the session judge.

NOTE.—See No. 159, Vol. II.

TO THE SEVERAL CRIMINAL AUTHORITIES.

Lower Provinces, 31st January, and Western Provinces, 27th March, 1840.

No. 39.

The orders of a magistrate for the realization of ferry balances are not appealable to the session judge.

I AM directed by the Court, under instructions from the Government, to intimate to you, that it is not competent to a session judge to receive an appeal from the orders of a magistrate for the realization of ferry balances.

NOTE.—See No. 29 of this Vol.

TO THE SEVERAL CRIMINAL AUTHORITIES.

Western Provinces, 20th March, and Lower Provinces, 3rd April, 1840.*

No. 40.

Instructions relative to the filling up of the monthly criminal statement No. 5, in regard to the record of the death of any prisoner who may have been sentenced to undergo imprisonment in one

WITH reference to the Circular, dated 19th July last, calling for information on the practice observed in filling up the monthly criminal statement No. 5, in regard to the record of the death of any prisoner or prisoners who may have been sentenced to undergo imprisonment in one zillah, but subsequently transferred for working on the roads, or under any other contingency, to another, the Court have now had under consideration the replies received thereto, and, with a view to

* The Western Court's Circular (addressed exclusively to the magistrates) which is given above, was circulated, with a separate letter, among all the criminal authorities in the Lower Provinces, for their information and guidance.

zillah, but subsequently transferred, under any contingency, to another.

the attainment of uniformity and the avoidance of confusion and error, are pleased to establish the following rule.

2. It has been found that no regular principle of entry prevails in respect to such casualties, the magistrates of some districts accounting in their own statements for deaths of prisoners detached from their own to other zillahs; the larger proportion, however, pursuing what the Court consider to be the correct method, of only entering, in their monthly returns casualties among convicts (whether of their own or other districts) who may be under their actual custody or charge, leaving the deaths happening among their own prisoners sent to other districts, to be entered and accounted for in the statements of such districts; while some officers appear to include in the statements both deaths in their own jurisdiction among convicts from other districts, and deaths in other jurisdictions among convicts from their own, a method of entry of necessity erroneous, and calculated to induce confusion, and represent the same casualties twice over.

3. The Court have been pleased to resolve, that in future each magistrate shall only account for and include in his monthly statement such casualties as may occur among prisoners (whether of his own or other districts) under his actual custody or charge; that prisoners in progress to other districts, for work on the roads or for other reasons, be borne on the statements of the districts whence they are sent, with the addition of a note to that effect, until notification of their having reached their destination be received there, when they will be struck off and appear in the statement of the district to which they may have been detached; that a similar rule apply to such prisoners returning from detached duty; that on this principle deaths happening among convicts in transit, either going or returning, be accounted for in the returns of the districts they are leaving; and that in respect both to casualties in transit and after arrival, the magistrate to whose district the prisoners may be sent, on obtaining information thereof, invariably forward the warrant, sent with the individuals so deceasing, to the magistrate from whose district they came, enclosed with a certificate of death under his official seal and signature.*

TO THE SEVERAL CRIMINAL AUTHORITIES.

Lower Provinces, 27th March, and Western Provinces, 24th April, 1840.

No. 41.

Directing the session judges to state their opinion whether prisoners, whom they would propose to sentence to imprisonment for life, should be confined in the Allipore jail or transported.

I AM directed to request that, in referring trials in which imprisonment for life may be recommended, you will invariably state your opinion, whether such imprisonment should be undergone in transportation or in the Allipore jail, with your reasons for proposing whichever of the two may be suggested by you.

NOTE.—See No. 130 of this Vol.

* This Circular has been retained on account of the rule relating to warrants in the last paragraph.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.*

Lower Provinces, 27th March, and Western Provinces, 1st May, 1840.

No. 42.

In cases of murder or wounding, when the evidence of the civil surgeon may be necessary, his evidence in the magistrate's court should be taken on oath.

It appearing to be a general practice in cases of murder, or wounding endangering life, when the body or wound may have been inspected by the civil surgeon, to submit the result of his examination to the magistrate in the form of a written report, I am directed to inform you that in such cases, when a commitment to the sessions court may be probable, the deposition of the surgeon should be taken in the magistrate's court, on oath, as such deposition, duly attested and proved in the manner prescribed by paragraphs 6 and 7 of the Circular Order, No. 54, dated 16th July, 1830, would be available as evidence on trial, in the event of the unavoidable absence of the surgeon.

2. I am directed to add that you should not resort to the mearsure of taking the deposition of the medical officer in the manner above stated, except in cases when his evidence on trial shall be manifestly necessary.

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 3rd April, and Western Provinces, 15th May, 1840.

No. 44.

Forwarding translations in Bengalee and Urdu of the form of declaration prescribed by Act V. of 1840, with instructions for bringing the provisions of that law into operation.

With reference to the provisions of Act V. of 1840, I am desired to transmit to you the subjoined translations, in Bengalee and Urdu, of the affirmation enjoined to be taken by all Hindu and Mahomedan deponents, and to request that you will make use of them until further instructions, in regard to the carrying out of the provisions of the Act, shall be forwarded to you.

2. In the event of its being necessary to use the Bengalee form for Mahomedans, the term used to designate the Supreme Being, by persons of that persuasion, will of course be substituted for that which now appears in the translation.

3. It is not required that the deponent should sign his name to any written affirmation, but he should merely read it out in court, or the declaration should be read out to him and repeated by him before giving his deposition, and at the heading of his written deposition it should be stated that he was sworn according to the provisions of Act V. of 1840.

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* A copy of this Circular was communicated to the session judges, on the same date.

4. Until general publicity has been given to the Act, the provisions of Section II. should be clearly explained to persons giving evidence in your court.

میں ایمان سے خدا تعالی کے حضور میں اقرار کرتا ہوں کہ
اِس مقدمہ میں میں سچ کہونگا بالکل جو جانتاہوں سچ کہونگا
اور سیواے سچ کے کچھہ نہیں کہونگا
میں دھرم سے پرمیشر کے حضور میں اقرار کرتاہوں کہ اِس
مقدمہ میں میں سچ کہونگا بالکل جو جانتاہوں سچ کہونگا اور
سیواے سچ کے کچھہ نہیں کہونگا

আমি পরমেশ্বরকে প্রত্যক্ষ জানিয়া ধর্ম্মতঃ প্রতিজ্ঞা করিতেছি যে এক্ষনে জাহা কহিব তাহা সত্য ও সম্পূর্ণ সত্য হইবেক এবং সত্য ভিন্ন হইবেক না ইতি।

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES.

No. 46. *Lower and Western Provinces, 1st May,* 1840.

Authorising an alteration in the Circular Order, No. 35, 31st May, (Western Court, 20th September,) 1839, regarding glazed doors and windows.

With reference to the Circular, No. 35, dated the 31st May [Western Provinces, 20th September] last, I am directed to say that the concluding injunction of paragraph 3 of the Circular of the Military Board, dated 14th May, annexed thereto, (as quoted below,*) having been found open to objection, the Court are pleased to resolve that it be omitted, and you are accordingly requested to erase the words referred to, and consider them as cancelled.

2. As regards the mode of dealing with individuals placed in the predicament contemplated by that paragraph, the Court think it sufficient to leave the matter to the sense and discretion of the officer at the head of the department.

TO THE SEVERAL SESSION JUDGES AND COMMISSIONERS OF CIRCUIT IN THE LOWER PROVINCES.

No. 50. *Lower Provinces, 5th June,* 1840.

Directing that copies of futwas, roobukarees, &c. forwarded with the sessions statements, be written on paper of English manufacture.

I am directed to request that copies of futwas and verdicts of assessors, or copies of the magistrate's roobukarees of commitments, forwarded with your monthly sessions statements, be written in future upon foolscap paper of English manufacture.

* "Such persons should not be allowed to depart without making good the damage done."

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 5th June, 1840.

No. 51.

Transmitting copy of a circular of the Sudder Board of Revenue, regarding the security to be required from officers appointed to the charge of both magistrate's and collector's treasuries.

I AM directed by the Court to transmit to you, for your information, copy of a Circular issued by the Sudder Board of Revenue to the subordinate revenue authorities, regarding the security to be required from officers who may be appointed to the charge of both foujdaree and collector's treasuries.

Circular of the Presidency Sudder Board of Revenue to the Commissioners of Revenue, under date the 29th April, 1840.

IN conformity with orders of Government, in the Judicial Department, under date the 14th instant, No. 660, I am directed by the Sudder Board of Revenue to intimate, for the guidance of the collectors and independent deputy collectors of your division, that in all future cases of the appointment of the treasurer of a collectorate, who may also be required to take charge of the foujdaree treasury, it will be incumbent on the collector to insert in the security bond a clause rendering the sureties responsible for any abuse of trust by the treasurer in the foujdaree department.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

Lower Provinces, 12th June, and Western Provinces, 31st July, 1840.

No. 52.

Communicating instructions regarding the modo of proceeding in the magistrate's court on the receipt of reports from the police officers of neglect of police duties by landholders.

IT having been represented to Government, that landholders and their agents are frequently subjected to considerable hardships by the arbitrary infliction of a fine, in cases wherein the darogah or other police authorities may think proper to report to magistrates their (the zemindars') neglect of police duties, I am directed to request your attention to the following instructions regarding the mode of proceeding on receiving such reports.

2. On receiving a report of alleged neglect of police duties on the part of any landholder, you will not require his personal attendance at your court, before calling upon him to furnish, within a week or ten days, a written explanation of the charge brought against him. Should the explanation be unsatisfactory, or should none be afforded within the time, you will require him to appear before you on an appointed day, in person or by mookhtar, to answer the charge. On his obeying the summons you will be careful to enter immediately upon the inquiry; avoiding all delay by summoning the witnesses in support of the charge to appear on the appointed day, and by directing

the accused to produce at the same time any witnesses whose evidence he may desire to offer in his own defence.

3. The offence being one of a bailable nature, the accused or his agent should not be placed in custody when required to attend the investigation into the charges.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.*

Lower and Western Provinces, 12th June, 1840.

No. 53.

Rule regarding the power of magistrates to dispose of certain descriptions of cases of assault and affray attended with wounding, instead of committing them to the sessions.

I AM directed to communicate, for your information and future guidance, the following rule regarding your power of disposing of certain descriptions of cases of assault and affray attended with wounding, instead of committing them to the sessions court.

2. You will not in future consider the mere circumstance of a bone-fracture to take a case of assault out of your cognizance, it being left to you to determine, with reference to the extent of the injury, and other considerations of a similar nature, what cases of this description should be disposed of by yourself and what made over for trial to the sessions court.

3. It will not be competent to the latter authority to cancel a commitment made by you under this discretionary power, merely on the ground of the session judge differing from you in regard to the tribunal before which the case should be brought, and by which consequently the amount of punishment is to be regulated.

4. In supersession of the Constructions quoted below by which cases of affray attended with wounding, if the wounds have been inflicted by a sword, have been ruled to be beyond the competence of a magistrate finally to dispose of, it is hereby declared that henceforward you are empowered, in such cases, to commit or punish, as you may judge most expedient without regard to the instrument of offence, and with reference solely to the nature and extent of the injuries inflicted by the aggressors.

NOTE.—See No. 102, Vol. III.

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* A copy of this Circular was forwarded to the session judges and commissioners of circuit on the same day.

† Nos. 623 and 628, printed Construction Book, Vol. II.

TO THE SEVERAL SESSION JUDGES AND COMMISSIONERS OF CIRCUIT.

Lower Provinces, 19th June, and Western Provinces, 24th July, 1840.

No. 55.

Communicating instructions regarding the description of cases referrible to the Nizamut Adawlut, under the provisions of Clause 1, Section 4, Regulation VI. 1832.

I AM directed by the Court to communicate to you the following instructions regarding the particular description of cases which, when tried in the mode contemplated by Clause 1, Section 4, Regulation VI. 1832, that is, with the aid of punchayet, assessors, or jury, but without the opinion of a Mahomedan law officer, would be referrible under that clause to the Nizamut Adawlut for final disposal.

2. The Court observe that the condition of reference to the Court set forth in the proviso of the clause cited, *viz.* the crime of which the prisoner is convicted being one which the judge is not specially empowered by the Regulations to punish, must be held to relate to the nature of the crime, and, since whatever is defined or specified in the Regulations to be a crime is specifically punishable by the criminal courts, the session judge is therefore specifically empowered to punish such offences when brought before him in due course of law.

3. The real object of the legislature in enacting Section 4 of the Regulation in question, appears to the Court to have been to declare the incompetency of the sessions court, unassisted by a Mahomedan law officer, to declare that to be a crime which is not so declared by the Regulations. The law professedly administered is the Mahomedan law amended and modified by the Regulations. Where the amendments are applicable, there can be no difficulty in disposing of trials; but in the contrary event, an exposition of the Mahomedan law is necessary to pronounce whether the act of the prisoner is punishable or otherwise. The session judge sitting with assessors has not the benefit of such exposition, and hence the necessity and propriety of a reference to the Nizamut Adawlut.

TO THE SEVERAL SESSION JUDGES AND COMMISSIONERS OF CIRCUIT.

Lower Provinces, 24th July, and Western Provinces, 14th August, 1840.

No. 57.

Directing that the Circular Order No. 36 of the 22nd November 1839, regarding the transmission of copies

FINDING that much of the time of the omlah of the sessions courts is occupied in preparing copies of roobukaries of commitment, which the Circular Order No. 36, of the 22nd November 1839, requires to be sent in all cases in which the commitment may be declared to have been made on insufficient grounds, the Court direct me to request that you will consider the order to be henceforth re-

of the roobukarees of commitment in certain cases, be restricted to cases, in which

stricted to cases in which the proceedings of the magistrate, in making the commitment, may appear to you to merit the particular notice of the Nizamut Adawlut.

the commitment may be considered injudicious.

NOTE.—See No. 168, Vol. II.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 58.

Western Provinces, 31st July, 1840.

Communicating rule regarding the process by which the evidence of a witness is obtainable in a district other than that in which he may be confined.

I AM directed to communicate to you the following rule, regarding the process by which the evidence of a prisoner is obtainable in a district other than that in which he may be confined.

2. It has been determined that whenever the evidence of a prisoner under such circumstances may be indispensable, the court requiring it shall request the magistrate of the district in which the prisoner may be confined to send him to such court, informing the Nizamut Adawlut of the step thus taken; and it will be competent to a magistrate, on such emergent requisition, to forward the prisoner to the court requiring his presence, for the purpose stated, reporting at the same time, for the information of the Nizamut Adawlut, his compliance with the requisition, and eventually the prisoner's return to his jail.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES.

No. 59.

Lower Provinces, 7th and Western Provinces, 28th August, 1840.

Communicating instructions on the subject of subsistence to indigent prosecutors and witnesses.

IT appearing from the several replies received from the magistrates and joint magistrates of the Lower Provinces to the Court's Circular of the 1st November last, that the provisions of Section 3, Regulation III. 1812, have not in all instances been properly attended to, I am directed by the Court to request that you will, in future, strictly conform to the rules laid down in that Regulation; and that you will be careful to ascertain that indigent witnesses are, on all occasions, supported either by the prosecutor or by the state, during the time of their detention from their homes, whether the case be pending before the session judge or otherwise.

2. The Court request your particular attention to the speedy disposal of all criminal charges, so that the witnesses may be detained for as short a period as is practicable at the sudder station; and you are requested to intimate to all your covenanted and uncovenanted assistants, the expectation of the Court that no unnecessary delay will take place in their courts.

3. The Court have observed with much satisfaction that the alleged confinement of witnesses by the nazirs in what is termed the hajut guard, is altogether unfounded ; and they confidently rely on your zeal and activity to prevent any abuses on the part of the subordinate native officers, and to punish the same when brought to your notice and proved to be true.

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES.

Lower Provinces, 7th and Western Provinces, 28th August, 1840.

No. 60.

Circulating an extract from a despatch of the Hon'ble the Court of Directors, relative to the imposition of heavy fines upon native servants of Government drawing small allowances.

I AM directed by the Court to transmit to you, for your information, an extract from a Despatch from the Honorable the Court of Directors, relative to the imposition of heavy fines upon native servants of Government drawing small allowances.

Extract from a Despatch from the Honorable the Court of Directors, under date the 11th February, 1840.

" We have on former occasions expressed our strong objection to the imposition of heavy fines upon native servants, as involving them in pecuniary difficulty, and inducing them to resort to improper practices for the purpose of indemnification. It appears to us that the preferable course is, when an officer refuses to do that which his official duty requires of him, to transfer at once the office to a more obedient holder."

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 14*th August,* 1840.

No. 61.

Circulating form of engagement in Urdu and Bengalee, to be taken from parties who undertake the safe custody of insane persons.

I AM directed by the Court to transmit to you a form of engagement, in Urdu and Bengalee, to be taken from parties who undertake the safe custody of persons who have committed crimes in a state of mental derangement.

میں زمیندار اور نمبردار موضع
پرگنہ ضلع کے ہوں

جون دیوانگی کی حالت میں قتل
کروانے کے سبب سے صدر نظامت کے حاکموں کی تجویز سے

قيد تها اور اب بموجب ميري استدعاء کے جو صاحب
کي رپورٹ کے ذريعہ سے بھيجاگيا تها حکام مفخرالیهم کے حکم سے
ميري ضمانت پر رهائي پائي اِس لئے اقرار کرتا هون اور لکهه
ديتاهون که اگر سے ديوانگي کي حالت
مين کوئي حرکت ايسي ظاهر هو که جس سے کسيکو يا کسيکي
جايداد کو کچهه ضرر پهنچے تو مين اور ميرے وارث دو سو روپيه
بطور جرمانه کے صاحب مجسٹرٹ کے خزينه مين داخل کرينگے
اور جس وقت مجهه يا ميرے وارث کو اِس ضمانت سے اپنے
برأت منظور هوگي تو همکو اِختيار حاصل هی که
مذکور کو صاحب مجسٹرٹ کے سپرد کرکے اپنے برأت کروالين
ورنه يهي وثيقه ضمانت برقرر رهيگا اور زميندارې جسکي
تفصيل نيچے لکهي هی مکفول رهيگي فقط

تفصيل

لکهے هوئے تاريخ ماه سنه

লিখিতং শ্রী জমিদার ও নম্বরদার মৌজে
পরগনে জেলা জামিননামা পত্রমিদং কার্য্যন
ঞ্চাগে উনমাদ সময়ে কাটিয়াফেলিবার জন্য সদর
নেজামতের হাকিমানদিগের তজবিজে কয়েদ ছিল আর
এইক্ষনে আমার প্রার্থনামতে জাহার রিপোট দ্বারায় পাঠান-
গিয়াছিল উক্ত হাকিমানদিগের হুকুমানুসারে
আমার জমানতিতে খালাস পাইল অতএব একরার
করিতেছি আর লিখিয়াদিতেছি জদ্যপি মজকুর
হইতে উনমত্ত ভাবে কোন কর্ম্ম যে যাহাতে কেহোকে এবং
কাহার জায়দাদের কোন নকসান পোঁছে তবে আমী এবং
আমার ওয়ারিস দুই সও টাকা জরিমানা সাহেব মেজেষ্ট্রে-
টের খাজানাতে দাখিল করিবো ও যে সময় আমাকে কিম্বা
আমার উত্তরাধিকারিকে এই জামিনি হইতে মুক্তহওয়া
প্রয়জন হইবেক তখন আমাকে ক্ষমতা আছে জে উক্ত

মেজেষ্টর সাহেবের নিকট অর্পণ করিয়া মুক্ত হইব নতুবা এই জামিনি বাহাল থাকিবেক আর জমিদারী যাহার তপশীল নিচে লেখা আছে বন্ধক থাকিবেক ইতি।

তপশীল।

সন তারিখ

TO THE MAGISTRATES AND INDEPENDENT JOINT MAGISTRATES IN THE NORTH-WESTERN PROVINCES, AND TO THE ASSISTANTS OF SAUGOR AND KUMAON.*

Western Provinces, 18th September, 1840. No. 63.

Recommendations touching the emoluments of the subordinate medical officers, to be submitted, through the regular channel, to the Medical Board direct.

It having been found necessary to throw all questions regarding the pay and remuneration of the subordinate medical officers of the Government into the hands of the Medical Board in Calcutta, I am directed by the Court, under instructions from the Honorable the Lieutenant Governor, to intimate to you that, in future, any recommendations you may have occasion to make touching the emoluments of that class of officers, should be submitted through the regular channel, to the Medical Board direct.

TO THE SEVERAL SESSION JUDGES AND COMMISSIONERS OF CIRCUIT.

Lower and Western Provinces, 18th September, 1840. No. 64.

With reference to the Circular No. 291, of 7th May 1824, intimating that those cases only are referrible to the Nizamut Adawlut in which the prisoner is accused and convicted of having administered poisonous drugs.

I am directed to acquaint you that it has been recently ruled by a majority of the Courts of Nizamut Adawlut that the Circular Order No. 291, dated 7th May 1824, is only applicable to the crime of administering poisonous drugs to persons with a view to robbing them when in a state of insensibility, and does not include the offence of administering drugs or substances, of a merely intoxicating character and not of a nature to endanger life, for the purpose recited, and that, consequently, those cases only are referrible to the Nizamut Adawlut in which the prisoners are accused and convicted of having administered poisonous drugs.

Note.—See No. 83, Vol. III.

* Copies of this Circular were sent to the session judges on the same date.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

No. 65.

Lower Provinces, 16th October, 1840.

Circulating resolution of Government regarding the purchase of tents for the use of magistrates.

I AM directed by the Court to transmit to you, for your information and guidance, the accompanying extract from the proceedings of the Right Honorable the Governor of Bengal, under date the 8th ultimo, regarding the purchase of tents for the use of magistrates.

No. 1472.

Extract from the Proceedings of the Right Honorable the Governor of Bengal in the Judicial Department, under date the 8th September, 1840.

Read the proceedings of the 6th February last in this department, Nos. 9 to 21, on the subject of tentage allowance to civil functionaries while absent from their stations on duty.

Read also a letter from the magistrate of Nuddea,* soliciting permission to purchase a tent for his mofussil tours at a cost of Company's Rupees 650.

RESOLUTION:

The Right Honorable the Governor of Bengal observes that a sum of Company's Rupees 650 was allowed every eight years† on account purchase of a double-poled tent for the use of each district magistrate and collector when those offices used to be vested in the same individual, but that, on the separation of the offices, the tents remained in most instances attached to the office of the collector.

It appears to His Lordship necessary, however, that both magistrates and collectors should be provided with office accommodation while on duty in the interior of their districts; and with this impression the Governor will, as occasion may be shown, have no objection to sanction the purchase of single-poled tents at an expense of Company's Rupees 350 each, for the use of magistrates, and also when new ones may be required for the use of collectors.

ORDERED:

That a copy of this Resolution be transmitted to the Superintendent of Police, Lower Provinces, and to the Revenue Department, for the purpose of communication to the Sudder Board of Revenue.

* No. 275 of the 16th July last.

† Vide Government Orders of the 18th November, 1829.

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES.

Lower Provinces, 16th August, and Western Provinces, 5th November, 1840.

No. 66.

Communicating the opinion of the Hon'ble the Court of Directors on the subject of natives employed in, and trained to the duties of, one department of the public service, being transferred to another.

I AM directed by the Court to transmit to you, for your information and guidance, the accompanying extract from the proceedings of the Right Honorable the Governor General in Council, in the military department, under date the 9th instant, regarding the entertainment in one department of the public service of persons holding employ in another.

No. 276.

Extract from the Proceedings of the Right Hon'ble the Governor General of India in Council, in the Military Department, under date the 9th September, 1840.

Extract of a Military Letter from the Hon'ble the Court of Directors, No. 33, dated 10th June, 1840.

14. As it is of much importance that natives who have been trained to the duties of an office, more especially to duties of a scientific nature, such as those performed by Radanath Seikdar, should not be incited to quit their stations with a view to their own advantage in another branch of Government employ, we fully approve of the intimation given by you to the Revenue Board that it was wrong for one department of the state to bid against another for the services of competent officers. We are of opinion that all departments should be apprised that they must not only not invite, but must positively refuse to entertain an application for employment from any native who is, at the time of making the application, in the public employ of a Government office or department, unless they shall have previously received the full acquiescence of the head of such office or department.

ORDERED:

That the preceding Extract of the Honorable Court's letter, be transmitted to the several departments mentioned below* for information, and for such communication to the heads of offices and other authorities in correspondence with those departments respectively, as may appear to be necessary.

* Secret and Political Department—Judicial Department—Revenue Department—General Department—Legislative Department.

TO THE SEVERAL CIVIL AND SESSION JUDGES.

Lower Provinces, 30th October, 1840.

No. 68.

Representations addressed to the Government by the uncovenanted judges or other officers relating to their services, to be forwarded by themselves through the public post.

UNDER instructions from the Right Honorable the Governor of Bengal, I am directed to request that you will abstain from forwarding to Government, representations from the uncovenanted judges, or officers attached to your court, relating to their services, it being the wish of His Lordship that all persons desirous of bringing their claims prominently to the notice of Government, should do so themselves by the public post.

2. You will not of course consider this order as rescinding the Circular Orders No. 215* of the 29th September, 1837, and No. 73* of the 6th March, 1840.

3. You will be pleased to furnish the magistrate and joint magistrate of your district with a copy of this letter.

TO THE SEVERAL SESSION JUDGES.

Lower and Western Provinces, 30th October, 1840.

No. 70.

Superseding Construction No. 1125, and intimating that conviction of the offence of aiding and abetting in a Suttee includes liability to labour.

THE Construction No. 1125, dated 22nd January, 1838, ruling that a session judge cannot award labour in addition to imprisonment in cases of conviction under Clause 2, Section 4, Regulation XVII. 1829, having been re-considered by the Calcutta and Allahabad Courts, it has been determined by a majority of the Judges of both Courts that, as the crime of aiding and abetting in a Suttee is expressly declared by law† to be culpable homicide, conviction of which latter offence includes liability to labour, the same penalty is awardable in the former case also; and Construction No. 1125, is, accordingly hereby superseded.

TO THE SEVERAL CIVIL AND SESSION JUDGES IN THE LOWER PROVINCES.

Lower Provinces, 20th November, 1840.

No. 73.

Calling for returns of the principal ministerial officers

I AM directed by the Court to request that you will forward a return, drawn up agreeably to the annexed form, of the names of the serishtadar, paishkar and nazir at present attached to your court, with

* See Circulars, S. D. A. Vols. II. and III.

† Clause 2, Section 4, Regulation XVII. 1829.

as little delay as may be practicable, and to intimate to you the desire of the Court that you will hereafter report, for their information, the removal or resignation of those officers, within ten days after the same may have taken place. attached to the courts of the civil and session judges.

2. You will also be pleased to report to the Court the names of any individuals who may be hereafter nominated to these offices, agreeably to the same form, and within the same period after the nomination may have occurred.

Return of the names of Serishtadar, Paishkar, and Nazir of the District of F.

Name of the officer.	Appointment held by him.	When nominated and by whom.	Age.	Number of years in the public service.	Schedule of landed property possessed by him.	General remarks as to qualifications, &c.
A. B., ...	Serishtadar, ..	In 1825, by Mr. C. D.	45	23	One Talook at a Jumma of 350 Rs. in Zillah E.	
	Paishkar, ...					
	Nazir, ...					

TO THE SEVERAL CIVIL AND SESSION JUDGES IN THE LOWER PROVINCES.

Lower Provinces, 18th December, 1840.

No. 76.

With reference to the provisions of Act XXIII. of 1840, communicating instructions regarding the mode of obtaining the evidence of witnesses residing in Calcutta.

THE Right Honorable the Governor of Bengal has lately forwarded to the Court two original letters from the chief magistrate of Calcutta, regarding certain irregular requisitions made by the mofussil authorities to that officer, for the purpose of obtaining the evidence of witnesses residing in Calcutta, in causes that appear to have been pending in the Company's courts.

2. Section 4, Act XXIII. of 1840, indicates the manner in which subpœnas issued by the mofussil authorities, may now be executed within the local limits of Her Majesty's courts; and you are therefore directed to refrain from sending any requisitions to the chief magistrate of Calcutta, in any civil or criminal proceedings, for the purpose of obtaining the evidence of witnesses residing in Calcutta.

3. The Court request that you will be careful that every subpœna, writ, warrant, or other process, required to be endorsed under the authority of this Act, be drawn up in strict conformity with the Regulations of Government, in order that the same may not be remitted to you for amendment.

4. You will furnish the magistrate with a copy of this letter, and you will communicate the contents to the principal sudder ameen and sudder ameen of your district.

TO THE SEVERAL SESSION JUDGES IN THE LOWER PROVINCES, THE COMMISSIONER OF THE 19TH DIVISION, AND THE SPECIAL SESSION JUDGE FOR THE TRIAL OF THUGS.

Lower Provinces, 26th December, 1840.

No. 77.

Directing that the applications of law officers for leave of absence be forwarded to the Court.

I AM directed by the Court, in pursuance of instructions from the Government, to request that you will forward to them any applications which may be made in future by the law officers of your district for leave of absence from their duties, with your own opinion as to the propriety of compliance with the same.

TO THE CIVIL AND SESSION JUDGES, AND THE MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 26th February, 1841.

No. 81.

The charge of treasuries to devolve, in all practicable cases, on covenanted rather than on uncovenanted officers.

IT being the wish of the Government that the charge of treasuries should, in all practicable cases, devolve upon a covenanted rather than an uncovenanted officer, I am directed by the Court to intimate to you that it must be considered the duty of the magistrate or joint magistrate residing at the same station with the collector or deputy collector, to assume charge of the treasury of the revenue officer, during the authorised or unavoidable absence of the latter.

2. Your attention is at the same time requested to the Circular Order No. 26, dated 23rd November, 1838, which requires public functionaries to receive charge of public property when the officer having custody is unable, from any circumstances, to retain charge of it.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 1st March, and Western Provinces, 18th June, 1841.

No. 82.

Mode of service, and forms of processes under Act XXIII. 1840.

THE following instructions on the subject of Act XXIII. 1840, are promulgated for general information, and for guidance as occasion may require.

1*st.*—Every process, civil or criminal, will be forwarded in an envelope to the address of the deputy sheriff of Calcutta, either by dâk, or by the hands of a peon or other public officer as may be most convenient, with a letter drawn up agreeably to the annexed form marked A.

2*nd.*—Any money that it may be requisite to send to the deputy sheriff, will be remitted by a bill on the general treasury from the collector of the district.

3*rd.*—All subordinate judicial officers will submit the processes of their courts, which may require execution under Act XXIII. 1840, to their European principal, to be by him forwarded in the prescribed manner to the deputy sheriff.

4*th.*—All processes will be drawn up agreeably to the forms marked B. and C., or agreeably to such other forms as may from time to time be circulated by the Courts of Sudder Dewanny and Nizamut Adawlut.

5*th.*—The party at whose requisition any witness may be summoned, must be prepared to pay to the witness such sum for his expenses as the Judges of Her Majesty's Supreme Court may consider reasonable and proper.

6*th*.—The judges and magistrates of the zillah courts will be careful that their own processes are drawn up correctly, and they will also ascertain that the processes of the subordinate courts that may be forwarded to the deputy sheriff, are drawn up agreeably to these rules and to the Acts and Regulations of Government.

NOTE.—See No. 185, of this Vol.

A.

TO THE SHERIFF OF CALCUTTA.

SIR,

I beg leave to enclose you (a notice* to be served on the parties therein named,) which I request you will have the goodness to present to the Judges of Her Majesty's Court agreeably to Act XXIII. 1840.

2. On your intimating to me the expenses of serving this process, the amount will be forwarded to you by a bill on the general treasury, and a person will attend hereafter (or, a person accompanies this letter) to point out the parties.

I have the honor to be,

Sir,

Your most obedient Servant,

A. B.

Judge or Magistrate.

Zillah ——————
January 184—.

* or, (a proclamation to be affixed to the outer door of the house in which the parties reside,) or, (a subpœna to be served on the witnesses therein named,) or, (a warrant to seize and apprehend the witnesses therein named,) and so forth, *mutatis mutandis*.

B.

CRIMINAL PROCESSES.

No. 1. SUMMONS.

TO RAMDHUN MISTRY,

Inhabitant of Coolootullah, in the Town of Calcutta.

Whereas a complaint has been preferred on the solemn declaration of Sheik Rumjoo, inhabitant of Sealdah, in the 24-Pergunnahs, charging you with assault, you are hereby required to appear before the magistrate (or the principal sudder ameen, or sudder ameen) of the zillah of the 24-Pergunnahs, on or before the 15th day of April 1841, to answer to the said charge. Herein fail not. Dated the 2nd day of April, 1841.

L. S.

A. B.

Magistrate.

No. 2. Warrant with Bail.

TO MOHUMUD NAZIM,

Nazir of the Fouzdarry Court of 24-*Pergunnahs.*

Whereas John Brown, inhabitant of Sealdah, stands charged on the solemn declaration of Rampersaud bearer, with assault attended with severe wounding, you are hereby directed to apprehend the said John Brown, and to require bail in the sum of 500 rupees for his appearance, before the magistrate of the said court, on or before the 20th day of April 1841, and if the said John Brown shall not give the bail above stated, you are directed to bring him before the magistrate of the said court. Herein fail not. Dated this 4th day of April, 1841.

L. S. A. B.

Magistrate.

No. 3. Warrant.

To MOHUMUD NAZIM,

Nazir of the Fouzdarry Court of 24-*Pergunnahs.*

Whereas Abdoollah Garéwan, inhabitant of Kuryah, stands charged on the solemn declaration of Peerbux, inhabitant of Sulkea, with the crime of murder, you are hereby directed to apprehend the said Abdoollah Garéwan, and to produce him before the magistrate of the said Court. In this fail not. Dated the 5th day of April, 1841.

L. S. A. B.

Magistrate.

No. 4. Search Warrant.

To MOHUMUD NAZIM,

Nazir of the Fouzdarry Court of 24-*Pergunnahs.*

Whereas Ramdoolal, inhabitant of Manicktollah, hath made information and complaint on solemn declaration, that the following property, that is to say, two brass lotahs, one string of gold beads, and two pieces of long-cloth, were stolen from his house, situated at Manicktollah aforesaid, and that he suspects that the aforesaid property is concealed within the dwelling-house and premises of Hookoor Chand Mug, inhabitant of Chore Bagan, in the town of Calcutta. you are hereby authorised and required, with the necessary and proper assistance, to enter into the said dwelling-house and premises of the said Hookoor Chand Mug, in the day time, and if the said pro-

perty shall be found therein, you are required to bring the property so found and also the person of the said Hookoor Chand Mug, before this court.

Given under my hand and the seal of the court, this 6th day of April, 1841.

L. S. A. B.

Magistrate.

No. 5. SUBPŒNA.

To SHEIK PEERBUX,

Inhabitant of Coolootullah, in the Town of Calcutta.

Whereas your attendance is required to give evidence on behalf of Sheikh Miskin, inhabitant of Sulkea, in a case of assault, you are hereby required personally to appear before the magistrate (or the principal sudder ameen) of the zillah of the 24-Pergunnahs on the 6th day of April, 1841. Herein fail not. Dated the 2nd day of April, 1841.

L. S. A. B.

Magistrate.

No. 6. WARRANT FOR A WITNESS.

To MOHUMUD NAZIM,

Nazir of the Fouzdarry Court of 24-Pergunnahs.

Whereas Sheikh Peerbux, inhabitant of Coolootullah, in the town of Calcutta, was duly subpœnaed on the 4th day of April, 1841, to give evidence in behalf of Sheikh Miskin, inhabitant of Sulkea, in a case of assault, and whereas the sum of five rupees was tendered to the said Sheikh Peerbux, for his expenses, as appears by the declaration of Sheikh Rumzoo Peada, who has also declared to the due service of the said subpœna, and whereas the said Sheikh Peerbux has neglected and refused to appear according to the exigence of the subpœna, you are hereby directed to apprehend the said Sheikh Peerbux and to produce him before the magistrate of the said court. In this fail not. Dated the 7th day of April, 1841.

L. S. A. B.

Magistrate.

No. 7. PROCLAMATION FOR THE ATTENDANCE OF A PARTY CHARGED WITH A CRIMINAL OFFENCE.

Proclamation of the Fouzdarry Adawlut of Zillah 24-Pergunnahs.

Whereas Ramdhun, inhabitant of Sealdah, stands charged on the solemn declaration of Rumzoo, inhabitant of Sealdah, with the crime of dacoity, and whereas a warrant was on the 7th day of April issued for his apprehension to answer to the said charge, and whereas from the report of Mohumud Nazim, nazir, dated 12th April, 1841, it appears that the said Ramdhun has absconded or concealed himself so that the said process cannot be served upon him, proclamation is therefore (in conformity to Section 4, Regulation XI. 1796) hereby made that if the said Ramdhun shall not appear to answer to the said charge on or before the 15th May, 1841, he will be subject to all the penalties of the aforesaid Regulation. Dated the 14th day of April, 1841.

L. S. A. B.

Magistrate.

No. 8. RECOGNIZANCE OF A WITNESS.

Whereas Sheikh Janoo, inhabitant of Sulkea, has complained against Peru, inhabitant of Sealdah, charging him with assault, and I have been named as a witness for the complainant (or the defendant,) I hereby engage to appear before the magistrate of the zillah of 24-Pergunnahs on or before the 12th day of April, 1841, for the purpose of giving evidence; in default whereof, I hereby further bind myself to pay such fine to Government as the magistrate may judge proper to impose on me, as well as any expenses that may be incurred, in consequence of my non-attendance, for compelling my appearance. In this I will not fail. Dated the 7th day of April, 1841.

L. S. SHEIKH RUMZAN,

Inhabitant of Dhurrumtollah, Calcutta.

No. 9. BAIL BOND FOR THE APPEARANCE OF A PARTY CHARGED

Whereas Syfoo, inhabitant of Sealdah, stands charged with assault, and is required to appear before the magistrate of the zillah of 24-Pergunnahs on or before the 5th April, 1841, to answer to such charge, I hereby bind myself to produce the said Syfoo before the said magistrate on the date aforesaid, and to be answerable for his appearance until a final order be passed by the magistrate upon the

said charge; in default whereof, I further bind myself to forfeit to Government the sum of one hundred rupees. In this I will not fail. Dated this 5th day of March, 1841.

L. S. PEERBUX.

N. B. The forms of civil processes will be found in the Civil Circular Order Book.

Translate of Forms prescribed by the foregoing Circular Order.

A.

کلکتے کے صاحب شریف کے لئے

۱ ۔اِس چٹھي کے ساتھہ مین آپ کے پاس ایک طلبانہ اِس اِرادہ سے بھیجتاھون کہ جنکے نام اِس مین مندرج ھین اُن پر جاري کیا جاے لھذا آپ مہرباني کرکے قانون تیرھوین سنہ۱۸۴۰ عیسوي کے روسے جناب عالیہ ملکۂ اِنگلستان کي سوپریم کورٹ کے صاحبان جج کے آگے درپیش کیجئے

یا ایک اِشتہار اِس اِرادہ سے بھیجتاھون کہ جنکے نام اِس مین مندرج ھین اُنکے گھر کے صدر دروازہ پر لگایا جاے یا جو گواہ کہ اُسمین مندرج ھین اُنکے طلب کے لئے ایک سفینہ یا جو گواہ کہ اُس مین مندرج ھین اُنکي گرفتاري کے لئے ایک وارنٹ یعنے دستک

۲ جوکچھہ کہ اِس حکم کے جاري کرنے کي بابت صرف ھوگا تمھارے اطلاع دینے پر ایک بل جنرل ترزري یعنے خزانۂ عام پر آپ کے پاس بھیجا جایگا اور جو اسامي کہ اِشتہار مین مندرج ھین اُنکے بتلانے کے لئے ایک شخص اُنمیکے بیچے آپ کے حضور حاضر ھوگا (یا اِس چٹھي کے ساتھہ ایک شخص بھنچیگا)

ضلع ——

جنوري —— ۱۸۴۱ جج یا مجسٹریٹ

B.

نمبر ۱ سمنس

بنام رام دھن مستري ساکن کولوٹولہ واقع شہر کلکتہ کے

چونکہ شیخ رمضو نے ساکن سیالدا چوبیس پرگنہ کے علاقہ میں تمہارے نام پر زد و کوب کي بابت نالش کي هی لہذا تمکو حکم هی کہ ۱۵ اپریل سنہ ۱۸۴۱ ع کو یا اُسکے پیشتر اِس نالش کي جوابدهي کے لئے چوبیس پرگنہ کے صاحب مجسٹریٹ (یا صدر الصدور یا صدر امین) کے حضور حاضر هو اِس میں تاکید جانو مورخہ ۱۲ اپریل سنہ ۱۸۴۱ ع

مقام مہر

اے بي
مجسٹریٹ

نمبر ۲ وارنٹ یعنے دستک واسطے ضامني کے

بنام چوبیس پرگنہ کي عدالت فوجداري کے ناظر محمد ناظم کے

چونکہ رام پرشاد کہار نے زد و کوب اور مجروح کرنے کي بابت جان برون سیالدا کے ساکن پر نالش کي هی لہذا تمہین حکم هی کہ جان برون مذکور کو گرفتار کر کر ۲۰ اپریل سنہ ۱۸۴۱ ع کو یا اُس سے پیشتر عدالت مذکورہ کے صاحب مجسٹریٹ کے حضور حاضر هونیکے لئے پانسو روپیہ کي ضمانت لے لو اور اگر جان برون مذکور ضمانت مزبور ندے تو تمہین حکم هی کہ عدالت مذکورہ کے صاحب مجسٹریٹ کے حضور اُسے حاضر کرو اِس میں تاکید جانو مورخۂ ۴ اپریل سنہ ۱۸۴۱ ع

مہر

اے بي
مجسٹریٹ

نمبر ۳ وارنٹ یعنے دستک گرفتاري

بنام چوبیس پرگنه کي عدالت فوجداري کے ناظر محمد ناظم کے چونکه عبد الله گاڈیبان ساکن کڑایا ہر بیر بخش ساکن سیالدا کے اظہار سے خون کے جرم کي بابت نالش هوئي هی لہذا تمهین حکم هی که عبد الله گاڈیبان مذکور کو گرفتار کر کر عدالت مذکورہ کے صاحب مجسٹریٹ کے حضور حاضر کرو اِس مین تاکید جانو مورخۂ ٥ اپریل سنه ۱۸۴۱ ع

مقام مہر ٦ اے بي
مجسٹریٹ

نمبر ۴ خانه تلاشي کا پروانه

بنام چوبیس پرگنه کي عدالت فوجدار کے ناظر محمد ناظم کے چونکه رام دولال ساکن مانک تلا نے اظہار کر کر اطلاع دي اور نالش کي که اشیاء مندرجۂ ذیل یعنے دو برنجي لوٹے ایک سونے کي مالا اور دو تهان لانگ کلاتهه کے میرے گهر سے جوکه مانک تلا مذکور مین واقع هی چوري گئے اور یهه کے میرا شبهه هی که اشیاء مذکورہ ککور چند ساکن چور باغان واقع شهر کلکته کے گهر اور احاطه مین چهپي هوئي هین لهذا تمکو حکم هی که تم کمك ضروري لیکر دن کے وقت ککور چند مذکور کے گهر اور احاطه مین داخل هو اور جو مال مسروقه وهان پایا جاے اُسے مع ککور چند مذکور کے اِس عدالت مین حاضر کرو آج کے دن ٦ اپریل سنه ۱۸۴۱ ع کو میرے دستخط اور عدالت کي مهر سے دیا گیا

مقام مہر اے بي
مجسٹریٹ

نمبر ۵ سفینه

بنام شیخ پیر بخش ساکن کولو تّوله واقع شهر کلکة کے
چونکه شیخ مسکین ساکن سلکیا کے زد وکوب کے مقدمه کي بابت
گواهي دینے کے لئے تمهارا حاضر هونا ضرور هی لهذا تمهین
لازم هی که تم اصالة ضلع ۲۴ پرگنه کے صاحب مجسٹریت
(یا صدر امین اعلی) کے حضور ۶ اپریل سنه ۱۸۴۱ ع کو
حاضر هو اِسمین تاکید جانو مورخهٔ ۲ اپریل سنه ۱۸۴۱ ع

مقام مهر — اے بي
مجسٹریت

نمبر ۶ گواهوں کے لئے وارنٹ یعنے دستك

بنام چوبیس پرگنه کي عدالت فوجداری کے ناظر محمد ناظم کے
چونکه زد و کوب کے مقدمه کي بابت شیخ مسکین ساکن
سلکیا کي طرف سے گواهي دینے کے واسطے شیخ پیر بخش ساکن
کولو تّوله واقع شهر کلکته کے نام پر ماه اپریل کے چوتهي تاریخ
سنه ۱۸۴۱ ع کو سفینه جاري هوا اوریهه که شیخ رمضو پیاده کے
اظهار سے جسنے که سفینه مذکور کے دستور کے موافق جاري
هوئیکا اظهار دیا هی واضح هی که شیخ پیر بخش مذکور کو
اپنے خرچ اخراجات کے لئے پانچ روپیه دینے کا اقرار کیا هی
اور یهه که شیخ پیر بخش مذکور نے سفینه مذکور کے موافق
حاضر هونے مین اِنکار اور تغافل کیا لهذا تمکو حکم هی که شیخ

بیربخش مذکور کو گرفتار کر کے عدالت مذکورہ کے صاحب مجسٹریٹ کے حضور حاضر کرو اِسمین تاکید جانو مورخۂ ۸ اپریل سنہ ۱۸۴۱ ع

مقام مہر

اے بي
مجسٹریٹ

نمبر ۷ جس اسامي پر فوجداري کے جرم کي بابت نالش هی اُسکے حاضر هونیکے لئے اِشتہار

ضلع چوبیس پرگنہ کي فوجداري عدالت کا اِشتہار

چونکہ رام‌دھن ساکن سیالدا پرڈکیتي کي علت مین رمضو ساکن سیالدا نے نالش کي هی اوربہہ کہ ایک وارنٹ ۷ اپریل کو اُسکي گرفتاریکے لئے جوابدهي کے واسطے جاري هوا تها اوربہہ کہ محمد ناظم ناظر کي رپورٹ مورخۂ ۱۲ اپریل سنہ ۱۸۴۱ ع سے واضح هی کہ رام دھن مذکور روپوش هوگیا هی جس سبب سے وارنٹ مذکور اُس پر جاري نہین هوسکتا لہذا قانون نوین کي دفعۂ چوتہي سنہ ۱۷۹۶ ع کے بموجب اشتہار دیا جاتا هی کہ اگر رام دھن مذکور پندرهوین مئی سنہ الیہ کو یا اُس سے پیشتر جوابدهي کے لئے حاضر نهوگا تو جمیع سزاهای مندرجۂ قانون مذکور کا سزاوار هوگا

مورخۂ ۱۴ اپریل سنہ ۱۸۴۱ ع

مقام مہر

اے بي

مجسٹریٹ

نمبر ۸ گواهون کا مچلکا

چونکه شیخ جانو ساکن سلکیا نے بیرو ساکن سیالدا پر زد وکوب کي نالش کي هی اور مدعي (یا مدعاعلیه) نے مجهے گواه تهرایا هی لهذا یهه مچلکا لکهه دیتاهون که ۱۲ اپریل سنه ۱۸۴۱ ع کو یا اُس سے بیشتر گواهي دینے کے لئے ضلع چوبیس پرگنه کے صاحب مجستریت کے حضور حاضر هونگا اوریهه که امر مذکور مین اگر کچهه قصور کرون تو جو کچهه جرمانه که صاحب مجستریت تجویز فرماوین اور اُسکے علاوه جو خرچه که میري غیرحاضري کے سبب سے واقع هو سرکار مین ادا کرونگا اِسمین عذر و حیله نکرونگا

مورخهٔ ۷ ابریل سنه ۱۸۴۱ ع

العبد——————————

شیخ رمضان ساکن دهرم تلا واقع شهر کلکته

نمبر ۹ اسامي کے حاضرهونے کي حاضر ضامني

چونکه سیفو ساکن سیالدا برزد وکوب کا اتهام درپیش هی اور اُسکي جوابدهي کے لئے ۵ ابریل سنه ۱۸۴۱ ع کو یا اُس سے بیشترضلع چوبیس برگنه کے صاحب مجستریت کے حضور اُسے حاضرهونیکا حکم هی تو مین اِقرار کرتاهون که سیفو مذکور کو تاریخ مزبورمین صاحب مجستربت موصوف کے حضور حاضر کرونگا اور جب تلک که حکم قطعي اتهام مذکور کي بابت صاحب مجستریت کے حضور سے نافذ نهوگا اُسکے حاضرکرنیکا

ذمہ دار ہون اور اگر اُسے حاضر نکرون تو سو روپیہ سرکار مین
جرمانہ دون اور کچھہ اُسمین عذر و حیلہ نکرون مورخۂ ٥ مارچ
سنہ ١٨٤١ع

العبد ——————— د

پیر بخس

A.

শ্রীযুত কলিকাতার সরিফ্ সাহেব বরাবরেষু।

১। আমি আপনার নিকটে এক তলবচিঠী পাঠাইতেছি এবং তাহার মধ্যে লিখিত বেক্তিরদের উপর তাহা জারি করিতে হইবেক অতএব আপনি অনুগ্রহ করিয়া ১৮৪০ সালের ২৩ আইনানুসারে শ্রীশ্রী মতি মহারাণীর সুপ্রিম কোর্ট আদালতের জজ সাহেবদিগকে তাহা দিবেন।

২। এই হুকুম জারিকরণে যে খরচা লাগে তাহা আপনি আমাকে জানাইবেন জেনরেল ত্রেজুরির উপর এক বিলের দ্বারা আপনার নিকটে তাহা পাঠাইব আসামীকে দেখাইয়া দিবার নিমিত্ত এক জন ইহার পর আপনার নিকটে যাইবেক (অথবা এক জন এই পত্রের সঙ্গে যাইতেছে)।

অমুক জজ

অথবা মাজিষ্ট্রেট

জিলা

জানুযারি ১৮৪

অথবা যে বাটীতে নির্দ্দিষ্ট ব্যক্তিরা বাস করে তাহার সদর দরওয়াজায় দিবার নিমিত্ত এক ইশ্‌তিহারনামা।

অথবা তাহার মধ্যে নির্দ্দিষ্ট সাক্ষিরদের উপর জারিহ্ওনার্থ এক সফিনা অথবা তাহার মধ্যে নির্দ্দিষ্ট সাক্ষিরদিগকে ধরিবার ও গ্রেপ্তার করিবার এক ওয়ারণ্ট অর্থাৎ দস্তক।

B.

১ নম্বর। সমন*

ফৌজদারী হুকুম।

কলিকাতা সহরের কলুটোলা নিবাসি রামধন মিস্ত্রী প্রতি আগে।

চব্বিশ পরগনার শিয়ালদহ্নিবাসি সেখ রমজু মারিপিটের বাবতে তোমার নামে প্রতিজ্ঞাপূর্ব্বক নালিশ করিয়াছে অতএব ইহার দ্বারা তোমার প্রতি হুকুম হইতেছে যে ১৮৪১ সালের আপ্রিল মাসের ১৫ তারিখে বা তাহার পূর্ব্বে জিলা চব্বিশ পরগনার মাজিষ্ট্রেটের অথবা প্রধান সদর আমীন কিম্বা সদর আমীনের সম্মুখে হাজির হইয়া ঐ নালিসের জওবাব দিবা ইহাতে গাফিলি করিবা না হতি। ১৮৪১ সাল তারিখ ২ আপ্রিল।

মোহরের স্থান

অমুক মাজিষ্ট্রেট।

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২ নম্বর। ওয়ারণ্ট অর্থাৎ দস্তক ও জামিনি।

চব্বিশ পরগণার ফৌজদারি আদালতের নাজির শ্রীমহম্মদ নাজিম বরাবরেষু।

শিয়ালদহ্ নিবাসি জান ব্রৌনের নামে রামপ্রসাদ বেহারা প্রতিজ্ঞাপূর্ব্বক মারিপিট এবং দারুন আঘাতের বিষয়ে

নালিশ করিয়াছে অতএব ইহার দ্বারা তোমার প্রতি হুকুম হইতেছে যে উক্ত জান ব্রৌনকে গ্রেপ্তার করিবা এবং ১৮৪১ সালের ২০ আপ্রিল তারিখে কিম্বা তাহার পূর্ব্বে উক্ত আদালতের মাজিষ্ট্রেট সাহেবের সম্মুখে হাজির হইবার নিমিত্তে তাহার স্থানে পাঁচ শত টাকার জামিন লইবা। এবং যদি ঐ জান ব্রৌন উপরের লিখিত জামিন না দেয় তবে উক্ত মাজিষ্ট্রেট সাহেবের সম্মুখে তাহাকে আনিতে তোমার প্রতি হুকুম হইল। ইহাতে কসুর করিবা না ইতি। ১৮৪১ সাল তারিখ ৪ আপ্রিল।

মোহরের অমুক

স্থান মাজিষ্ট্রেট।

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৩ নম্বর। ওয়ারণ্ট অর্থাৎ দস্তক।

চব্বিশ পরগনার ফৌজদারি আদালতের নাজির শ্রীমহম্মদ নাজিম বরাবরেষু।

শালিখা নিবাসি পীরবকস প্রতিজ্ঞাপূর্ব্বক কড়ায়া নিবাসি আবদুল্লা গাড়য়ানের নামে খুনের অপরাধে নালিশ করিয়াছে অতএব ইহার দ্বারা তোমার প্রতি হুকুম হইতেছে যে ঐ আবদুল্লা গাড়য়ানকে গ্রেপ্তার করিয়া উক্ত আদালতের মাজিষ্ট্রেট সাহেবের সম্মুখে তাহাকে আনাইবা ইহাতে কিছু গাফিলি করিবা না ইতি। ১৮৪১ সাল তারিখ ৫ আপ্রিল।

মোহরের অমুক

স্থান মাজিষ্ট্রেট।

৪ নম্বর। খানাতলাশীর পরওয়ানা।

চব্বিশ পরগনার ফৌজদারি আদালতের নাজির শ্রী মহম্মদ নাজিম বরাবরেষু।

মানিকতলা নিবাসি রামদুলাল প্রতিজ্ঞাপূর্ব্বক এই এজহার ও নালিশ করিয়াছে যে নিচের লিখিত বিষয় অর্থাৎ পিত্তলের লোটা ও একছড়া সোনার হার এবং দুই থান লাৎকলাথ পুর্ব্বোক্ত মানিকতলায় তাহার বাটী হইতে চুরি হইয়াছে। এবং উক্ত জিনিস কলিকাতা শহরের চোরবাগান নিবাসি ককুরচাঁদ মঘের ঘর ও বাটীর মধ্যে লুক্কাইত আছে এমত তাহার সোবে হয়। অতএব ইহার দ্বারা তোমাকে ক্ষমতা দেওয়া যাইতেছে এবং তোমার প্রতি হুকুম হইতেছে যে আবশ্যক ও উপযুক্ত সহায় লইয়া দিবাভাগে ঐ ককুরচাঁদ মঘের ঘর ও বাটীতে প্রবেশ করিবা এবং যদি উক্ত জিনিস সেখানে পাওয়া যায় তবে তুমি ঐ প্রাপ্ত জিনিস এবং ঐ ককুরচাঁদ মঘকে এই আদালতের সম্মুখে আনিবা ইতি। আমার দস্তখত ও এই আদালতের মোহর ১৮৪১ সালের ৬ আপ্রিল তারিখে করাগেল।

মোহরের স্থান

অমুক মাজিষ্ট্রেট।

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৫ নম্বর। সফিনা।

কলিকাতা সহরের কলুটোলা নিবাসি সেখ পীরবকস প্রতিয়াগে।

মারিপিটের নালিশে সালিখা নিবাসি সেখ মিস্কিনের তরফে সাক্ষ্য দিবার নিমিত্তে তোমার হাজির হওনের আবশ্যক

আছে অতএব তোমার প্রতি হুকুম হইতেছে যে ১৭৪১ সালের ৬ আপ্রিল তারিখে জেলা চব্বিশ পরগনার মাজিষ্ট্রেট সাহেবের (অথবা প্রধান সদর আমিনের) সম্মুখে হাজির হইবা ইহাতে কিছু গাফিলি করিবা না ইতি। ১৮৪১ সাল তারিখ ২ আপ্রিল।

মোহরের স্থান

অমুক মাজিষ্ট্রেট।

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৬ নম্বর। সাক্ষির বিষয়ি ওয়ারণ্ট অর্থাৎ দস্তক।

চব্বিশ পরগনার ফৌজদারি আদালতের নাজির শ্রীমহম্মদ নাজিম বরাবরেষু।

মারিপীটের নালিশে সালিখা নিবাসি সেখ মিস্কিনের তরফে সাক্ষ্যদিবার নিমিত্তে ১৮৪১ সালের ৪ আপ্রিপ তারিখে কলিকাতা সহরের কলুটোলা নিবাসি সেখ পিরবকসের নামে রীতি মতে সফিনা হইয়াছিল। এবং সেখ রমজু পেয়াদার কথাক্রমে বোধ হইতেছে যে ঐ সেখ পিরবকসকে আপনার খরচার নিমিত্ত পাঁচ টাকা দিতে প্রস্তাব হইয়াছিল এবং ঐ সেখ রমজু পেয়াদা ঐ সফিনা রীতি মত জারি করিয়া ছিল এমত কহে। কিন্তু ঐ পিরবকস সফিনার হুকুম মতে হাজির হইতে ত্রুটি এবং অস্বীকার করিয়াছে অতএব ইহার দ্বারা তোমার প্রতি হুকুম হইতেছে যে ঐ সেখ পিরবকসকে গ্রেপ্তার করিয়া উক্ত আদালতের মাজিষ্ট্রেট সাহেবের সম্মুখে হাজির করাইবা ইহাতে গাফিলি করিবা না ইতি।১৮৪১ সাল তারিখ ৭ আপ্রিল।

মোহরের স্থান

অমুক মাজিষ্ট্রেট।

৭ নম্বর। ফৌজদারি অপরাধে আসামীর হাজির হইবার ইস্তেহার।

জেলা চব্বিষ পরগনার ফৌজদারি আদালতের ইস্তেহার শিয়ালদহ নিবাসি রমজু প্রতিজ্ঞা পুর্ব্বক শিয়ালদহ নিবাসি রামধনের নামে ডাকাইতি অপরাধে নালিশ করিয়াছে এবং ঐ নালিশের জওয়াব দিবার নিমিত্ত তাহাকে গ্রেপ্তার করণের এক ওয়ারণ্ট গত ৭ আপ্রিল তারিখে জারি হইয়াছিল এবং ১৮৪১ সালের ১২ আপ্রিল তারিখের শ্রীমহম্মদ নাজিম নাজিরের রিপোরটের দ্বারা দৃষ্টি হইতেছে যে ঐ রামধন পলাইয়াছে অথবা আপনাকে লুক্কাইয়াছে এবং ঐ হুকুম তাহার উপর জারি হইতে পারেনাই অতএব ১৭৯৬ সালের ১১ আইনের ৪ ধারাক্রমে ইস্তেহার দেওয়া যাইতেছে যে ঐ রামধন যদি ঐ নালিসের জওয়াব দিবার নিমিত্ত ১৮৪১ সালের ১৫ মে তারিখে কি তাহার পুর্ব্বে হাজির না হয় তবে ঐ আইনের লিখিত দণ্ডের যোগ্য হইবেক ইতি। ১৮৪১ সাল তারিখ ১৪ আপ্রিল।

মোহরের স্থান

অমুক মাজিষ্ট্রেট।

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৮ নম্বর। সাক্ষির মুচল্‌কা।

সালিখা নিবাসি সেখ জানু শিয়ালদহ নিবাসি পীরুর নামে মারিপিটের বিষয়ে নালিশ করিয়াছে এবং ফরিয়াদি অথবা অসামি আমাকে সাক্ষি মানিয়াছে অতএব এই মুচল্‌কা লিখিয়া দিতেছি যে সাক্ষ্যদিবার নিমিত্ত ১৮৪১ সালের ১২ আপ্রিল তারিখে কিম্বা তাহার পুর্ব্বে চব্বিশ পরগনা জিলার মাজিষ্ট্রেট সাহেবের সম্মুখে হাজির হইব

যদি আমি ইহাতে কিছু কসুর করি তবে মাজিষ্ট্রেট সাহেব যে জরিমানা সরকারে দিতে আমারপ্রতি হুকুম করিতে উচিত বোধ করেন তাহা এবং অমার হাজির না হওযাতে ও আমাকে হাজির করাইতে যে খরচা লাগে তাহার নিসা করিব এমত অঙ্গীকার করি ইহাতে কিছু গাফিলি করিব না ইতি। ১৮৪১ সাল তারিখ ৭ আপ্রিল।

(সাক্ষরিত) সেখ রমজান।
কলিকাতার ধর্ম্মতলা নিবসি।

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৯ নম্বর। আসামীর হাজির করিবার নিমিত্ত হাজির জামিন।

শিয়ালদহ নিবাসি সৈফুর নামে মারিপিটের নালিশ হইয়াছে এবং ঐ নালিসের জওয়াব দিবার নিমিত্ত ১৮৪১ সালের ৫ আপ্রিল তারিখে বা তাহার পুর্ব্বে জিলা চব্বিশ পরগনার মাজিষ্ট্রেট সাহেবের সম্মুখে তাহাকে হাজির হইবার হুকুম হইয়াছে অতএব আমি স্বেচ্ছা পুর্ব্বক একরার করিতেছি যে উক্ত তারিখে ঐ মাজিষ্ট্রেট সাহেবের সম্মুখে উক্ত সৈফুকে হাজির করাইব এবং উক্ত নালিশে মাজিষ্ট্রেট সাহেবের চুড়ান্ত হুকুম না হওয়া পর্য্যন্ত তাহাকে হাজির করাওনের দায়ি হইব যদ্যপি ইহাতে গরহাজির না হয তবে সরকারে এক শত টাকা জরিমানা আদায় করিব ইহাতে কিছু কসুর করিবনা ইতি। ১৭৪১ সাল তারিখ ৫ আপ্রিল।

পিরবকস।

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 24th March, 1841.

No. 83.

Instructions regarding the wording of the charge in cases of administering poisonous or intoxicating drugs.

SEVERAL instances have lately occurred of defective indictments in trials meant to be referred to the Nizamut Adawlut under the Circular Order dated 7th May, 1824, in which the administering dhatoora with intent to rob has been charged, but the designation of poison not specifically adduced in the charge.

2. As such wording is indefinite and open to objection, the Court are pleased to direct that, in future, indictments in cases of the nature referred to shall be worded simply "administering poison or poisonous drugs with intent," &c. or "administering intoxicating drugs with intent," &c. (according as the Circular Order of 7th May, 1824 or 18th September last, may apply to the case,) the article given, whether dhatoora or other substance, being adduced in the evidence in support of the charge.

NOTE.—See No. 64 of this Vol.

TO THE CIVIL AND SESSION JUDGES, AND THE MAGISTRATES AND JOINT MAGISTRATES IN THE BENGAL DISTRICTS.

Lower Provinces, 2nd April, 1841.

No. 84.

Attention to the style of proceedings in the Bengalee.

IT being desirable that the proceedings of the civil and criminal courts recorded in the vernacular, should be generally intelligible, by the adoption of a style equally removed from the colloquial and that employed by the pundits, I am directed to request that you will pay particular attention to the subject, and refer your head ministerial officers, and the uncovenanted judges under your control, to the Bengalee version of the Regulations of 1793, in regard both to the style which should be made use of by them and the terms which usually occur in legal proceedings.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 30th April, 1841.

No. 85.

Rules for the guidance of magistrates in adopting measures relative to insane British subjects.

THE Honorable the Court of Directors having signified a wish that the course of procedure authorised by law, in cases where the local magistrates may be called on to adopt measures relative to insane British subjects, should be defined and communicated for the guidance of those officers, the Court circulate, with the sanction of Government, the following rules:

1. Whenever it may come to the knowledge of a magistrate that an European British subject, wandering about and at large within his jurisdiction, is deemed to be insane, it shall be competent to him to direct the transmission of such person, in custody of a proper guard, but with due precautions against needlessly harsh or severe treatment, to the sudder station, and cause him to be carefully examined by the civil surgeon; and if on such examination, coupled with other proof, the magistrate shall be satisfied that such British subject is so far disordered in his senses that it is dangerous for him to be permitted to go abroad, he shall send him under a proper guard,* and with his warrant under his seal and signature, accompanied with a certificate under the signature of the civil surgeon, to the insane asylum at the presidency, securing, at the same time, the lunatic's property (should he have any) and intimating his state, in writing, to any relations or friends he may be known to have in India; and this rule shall not be understood to extend to prevent any such relation or friend that may be forthcoming from taking such lunatic with his property under his own care and protection.

2. The magistrate is authorised to attach and sell by auction any personal property such declared lunatic may possess, with a view to the proceeds being applied to the payment of necessary charges of removal, maintenance, clothing, medicine, and care of such lunatic; and he will keep an account of what expenditure he may himself incur on this head in his own office, and remit so much of the amount as may be needed to meet the above charges elsewhere.

3. Whenever there may not be sufficient property, or no property at all forthcoming, and no relations or friends of the insane person may be discoverable to take charge of him, the magistrate is authorised himself to disburse the necessary expenses for the removal of the lunatic to the asylum and his subsistence in transit, and charge the amount to Government in a contingent bill, to be submitted with the countersignature of the session judge or commissioner.

4. The magistrate will report each occasion of his acting under the above rules to the Secretary to Government in the Judicial Department, soliciting special instructions with reference to any peculiar circumstances that may arise.

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* The Western Court's Circular ran thus: "and with a certificate under his seal and signature, to what may be judged the most convenient place for his reception and confinement, which, in most instances, will probably be the insane asylum at the presidency," &c.

TO THE MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 2nd July, 1841.

No. 87.

The security statements of native officers of magistrates' courts, dispensed with.

THE Court, having understood that the security statements of native ministerial officers of the magistrate's court, entrusted with public money, (which were required by the Circular Orders Nos. 34, 150 and 193, dated respectively the 23rd September, 1831, 3rd July, 1835, and 16th December, 1836,) are forwarded to the superintendent of police, are pleased to dispense with your submitting such statements to them in future.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 6th August, and Western Provinces, 8th October, 1841.

No. 90.

Creation of unauthorised funds in public offices, interdicted.

UNDER instructions from the Government, the Court notify for general information, that the Honorable the Court of Directors have prohibited the creation and maintenance of unauthorised funds in the public offices, through the means of fines, or from deductions made from the pay of establishments; and have directed that sums thus accruing should be carried to the credit of Government.

TO THE CIVIL AND SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 25th August, 1841.

No. 9

Rule for relief of civil and session judges, empowering them to employ at discretion, their head clerks in certain unimportant duties now done by the former.

THE Court publish the following rule, determined on by the Courts of Sudder Dewanny and Nizamut Adawlut of the Lower and Western Provinces in concert, with the sanction of Government, for devolving on the head clerk of the zillah judge's establishment certain unimportant duties hitherto performed by the judge, with a view to the relief of the latter officer.

2. The judges are empowered, at their discretion, to employ their head clerks in the following duties:

Attesting copies of decrees and other documents granted to parties on stamped or plain paper under the judge's orders.

Attesting copies of proceedings sent to the local authorities and to other districts under the judge's orders.

Registering in English the mookhtarnamas, and preparing them for the judge's attestation.

3. As a needful precaution against error and abuse, it is at the same time ordered that the head clerk, when entrusted with such duties at the discretion of the judge, is never to attach his signature to any document without its correctness having been previously attested and certified by the head ministerial native officer of the judge's court.

TO THE SESSION JUDGES, AND THE MAGISTRATES AND JOINT MAGISTRATES IN THE BEHAR DISTRICTS, INCLUDING MONGHYR.

No. 92. *Lower Provinces, 27th August,* 1841.

Commitment of persons supposed to belong to an association for robbing and murdering travellers, &c. to be made by the assistant to the general superintendent for the suppression of thuggee.

WITH reference to the annexed extract of a letter from the superintendent of police, the Court are pleased to direct that persons accused of robbery and murder (or either of those crimes,) under circumstances justifying a suspicion that the crimes have been perpetrated by persons engaged in a systematic combination for such purposes, be in future made over to Captain Ramsay, the assistant superintendent in Behar, who is invested with the powers of joint magistrate in the Behar province, Monghyr included. It will be the duty of that officer to commit the persons so transferred, to be tried before the special session judge for the trial of thugs, and to make investigations as to the existence of combinations of the kind described, with a view to the suppression of the offences to which they give rise.

Extract (paras. 2 and 3) from a Letter of the Superintendent of Police, dated 2nd instant.

PARA. 2. I have no doubt however but what a combination exists along the lines of road frequented by travellers, pilgrims, &c. for robbery by this atrocious method, and that the dâk bearers, petty muddees at the halting-places, bhutearas, and common thieves, are concerned in it. I also think that it is carried on to a greater extent than is officially known, or generally suspected, and that many of the travellers, whose corpses, at the times of pilgrimage to Gyah or Hurree-Chetra, are found by the road-side or at halting-places, have met with their deaths from such means. The roads are so inadequately protected without any patrol, that there is always an opportunity for such a crime almost without a chance of discovery.

3. Several cases have lately occurred in Behar, Patna, and Shahabad; and I think it would be advisable to make all such trials over to the officers of the thuggee department for commitment to the thuggee Session Judge; for if, as I believe, there is a combination as above stated, it is more likely to be traced out by the

cases being placed in the hands of one officer than by the divided investigations of separate magistrates.

TO THE SEVERAL MAGISTRATES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 24th September, 1841.

No. 93.

Attention of magistrates called to Circular Order of 14th October, 1836, regarding issue of blankets to convicts.

THE Court, adverting to the usual increase of mortality in the jails on the approach of the cold season, and to the necessity of mitigating, by all possible means, the evil effects caused by change of season to which much of the sickness is wont to be ascribed, take occasion to call the attention of magistrates to the Circular Order of the Nizamut Adawlut, dated 14th October, 1836,* enjoining that all prisoners in confinement during the cold season, not already so provided, are to be furnished with blankets, which should invariably be issued on or before the 15th October.

TO THE SESSION JUDGES IN THE LOWER PROVINCES.†

Lower Provinces, 29th October, 1841.

No. 94.

Translates of proceedings generally dispensed with in criminal trials.

I AM directed to inform you that the Court are pleased to dispense with translations of all proceedings in criminal trials referred to them, with the exception of those cases, tried with the assistance of the law officer, in which the session judge may recommend a capital sentence.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 19th November, 1841.

No. 95.

Native gentlemen of rank to be addressed by the authorities in a suitable manner.

AN instance having been brought to the notice of the Government, of an improper mode of address towards a native gentleman of rank by a public functionary, I am directed to request that you will be careful that native gentlemen, and particularly those of high rank, are addressed in all public documents in a courteous style suitable to their station in society.

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* See No. 207, vol. II.

† This Circular was not sent to the authorities in Orissa.

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

No. 96. *Lower Provinces, 3rd December,* 1841.

Names of heathen deities not to be prefixed to proceedings of the courts.

THE Court, having observed in various instances, that the proceedings and orders of the different courts of justice are headed with the names of the heathen deities, desire me to request that such practice may be discontinued in all orders of the courts and processes emanating therefrom.

2. At the same time, I am directed to observe that the above order has no reference whatever to petitions, documents, or papers of any kind which may be presented to the courts, in regard to which you will be careful to abstain from all interference.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

No. 97. *Lower Provinces, 17th December,* 1841.

Iron degcheesformesses of convicts to be provided by the magistrates.

IN modification of Rule 12 of the Circular Order No. 2583, of the 9th July last, which authorises Magistrates to indent on the commissariat for iron degchees or cooking pots, I am directed by the Court to intimate to you that magistrates are to make their own arrangements for procuring those articles.

TO THE SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

No. 98. *Lower and Western Provinces, 27th June,* 1842.

Communicating rules for the preparation of the Monthly and Annual Criminal statements, with new forms.

THE Court of Nizamut Adawlut having completed the revision of the monthly and annual criminal statements on which they have been for some time engaged, I am directed to transmit to you the accompanying new forms* of statements which have been devised for submission by the session judges and magistrates respectively, as enumerated in the subjoined list, together with separate rules for guidance in preparing the statements of each of those departments, and to request that you will introduce the monthly forms from the commencement of the

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* The forms are supplied by the Sudder Court, and are consequently not reprinted.

year 1843, and adopt the yearly form in the preparation of the annual criminal returns for that year, prescribing a similar introduction and use by the magistrate (or magistrates) subordinate to you, to whom such of the statements and instructions as appertain to their department should be duly communicated.

2. The more comprehensive form of these statements, in consequence of the various additions and alterations which have been made in devising them, and the increased utility likely to result from them, as records of information and check, will be obvious ; and the mode of their preparation, together with the way in which one part corresponds with another, and thus constitutes a powerful means of detecting error, is fully detailed in the rules appended to this letter.

3. But to ensure any practical value in these returns, care and attention in their preparation, and unabated vigilance in their supervision, are absolutely essential. Your duty, in revising the magistrate's statements, will be, not only to see that they are technically accurate, and that no part of the information they are expected to contain is wanting, but to ascertain, as far as they supply means of judging, whether the several officers subordinate to you have been assiduous in the discharge of their duties. You will notice any irregularity that may appear on the face of the statements, taking such immediate steps as consist with your competency to correct the same, calling for explanation on any points that may require it, and briefly stating on the return, under the head of remarks, the nature of any orders which you may have issued to the magistrate or his subordinates.

4. The above observations apply with equal force to all returns, monthly and yearly, submitted through your office. Your annual report on the administration of criminal justice should, besides, advert to the following general points.

5. Too exclusive stress appears to have been heretofore laid on the proportion borne by acquittals to convictions, in the number of persons apprehended on criminal charges, as well as in cases of commitment to the sessions, viewed as a criterion for estimating the efficiency of the administration of a district,—the recognized principle having been, that any considerable disproportion between the number of persons apprehended in a zillah in any month, and the number whose cases the magistrate has been able to prosecute to punishment or commitment, must be regarded as presumptively showing that a great proportion had been subjected to seizure without reasonable grounds,—a rule which, though abstractedly true, is open, when adopted as an invariable test for judging of the efficiency or otherwise of a system, to the objections, on the one hand, of its causing a magistrate to desire the conviction and punishment of the parties tried and finally disposed of in his own court, in order to show fair returns ; and, on the other, of inducing the same officer to abstain from the commitment or to resist the apprehension, in the progress of an investigation, of all persons of whose conviction at the sessions he is not before certain, and of favoring the concealment and suppression

of offences by the darogah of police from his over caution not to send in persons without a certain quantum of proof to convict them, and his apprehension of being censured for so doing. Though, therefore, when the acquittals may much exceed the convictions, cause for inquiry is doubtless shown, which it should be your duty to institute and the result of which you should note, yet you ought not to assume as disparaging to the system of a district a circumstance which may admit of satisfactory explanation ; nor, on the other hand, pronounce a preponderance of convictions to indicate successful management, without first ascertaining how many judgments by the the magistrate were appealed to, and reversed by, the session judge, or in how many cases the punishment on conviction was so light as to render it not worth while to appeal, and what was the issue of the commitments made to your court.

6. In reciting the detail of orders confirmed, modified, or reversed by your court, in cases carried up in appeal by parties dissatisfied with the magistrate's decision, you will state what opinion of the general character of the proceedings of that officer, or the authorities subordinate to him, such revision has enabled you to form. Any other circumstances which may appear to you worthy of being noted concerning this branch of your controlling duties, will be acceptable to the Court as a further means of estimating the efficiency of the magisterial body, and the success of their administration.

7. The opinion which you may form of the proceedings of the magistrate and his subordinates, from the result of the commitments made to your court, should be recapitulated in your report, with such prominent reference to particular cases, whether convictions, acquittals, or commitments cancelled during the year, as may serve to illustrate your remarks.

8. In reviewing the performances of the year, you will not fail to advert to the share taken by the several officers subordinate to the magistrate in the disposal of foujdaree business, and to the manner in which they have severally discharged their duties. The magistrate should therefore be required to report specifically on these points, with reference to the joint magistrate and assistants (if any) under him, and to the native judges and law officers. The services rendered in this department by the native judges should be distinctly brought into view, and the result of the appeals from their orders noticed by the magistrate.

9. The considerations in the foregoing paragraph, involving the nature and extent of the auxiliary agency in the criminal department, connect themselves closely with a subject to which your best attention should be directed, and which should be noticed in your report, *viz.* the long, moderate, or short duration of a criminal case, as affecting the convenience of parties and witnesses therein, and as indicative of a sound and effective system or the reverse. When therefore the average number of days during which cases were under trial in a district, appears excessive, or when great variation of time may be known to exist between one year or district, and another, the

causes should be carefully investigated, and the principle of calculation tested, that is to say, whether the period is computed from the date of apprehension by the police (as it should be) or from the date of arrival at the sudder station of the magistrate.

10. As respects your own court, particulars will be expected of the extent of the use of the jury or assessor system in criminal trials, and the degree of success attending it, of the mode of selecting such agency, (to illustrate which a new form, No. 13, has been devised ;) and of the defects or abuses found or suspected to prevail in making use of it, with your opinion of the best remedy.

11. Besides the points noted, the Court request that you will bring to their notice whatever you may consider worthy of remark either in the laws in force, or in the instruments for administering them, comprehending such information of the condition of the district under you, as local experience and observation will readily supply, but to convey which the most elaborate figured statements would be inadequate.

12. In order to ensure the requisite information being furnished irrespectively of changes of officers, the Court direct that whenever a session judge may deliver over charge of his office preparatory to any thing beyond a temporary absence, he shall place on record a minute, containing particulars of the nature aforesaid, and his opinion on the several points to which allusion has been made, for the use of his successor, and eventually for submission to the Court.

13. A supply of blank lithographed forms of each description of statement sufficient for immediate use, is herewith forwarded ; and you will in future indent* on the Court for every fresh supply you may require, making such timely applications as to admit of the forms reaching you before those last furnished are entirely exhausted, so as to obviate delay in the submission of the statements at the prescribed period, or the necessity of having recourse to manuscript forms.

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* The Court prescribed the submission of the following form on the 1st October of every year, for forms that will be required for the ensuing year, to allow of the timely despatch of the requisite supply.

INDENT OF LITHOGRAPHIED FORMS FOR THE YEAR 1848.

Description of Forms.	Number last applied for.	Number in store on 1st Oct. 184 .	Number now indented for.

L. P., 9th July, 1847.

List of Statements.

SESSION JUDGE'S STATEMENTS.

No. 1. Statement of persons brought to trial, convicted, acquitted, and referred.
„ 2. Detail of headings 41 and 42 of statement No. 1.
„ 3. Statement of prisoners detained on requisition of security.
„ 4. Statement of appeals preferred from the magistrate's and joint magistrate's orders.
„ 5. Abstract of sessions operations.
„ 6. Statement of prisoners punished without reference.
„ 7. Register of criminal trials referred to the Nizamut Adawlut.
„ 8. Statement of prisoners acquitted by the session judge.
„ 9. Register of criminal trials, for the submission of which to the Nizamut Adawlut, orders have been received during the month.
„ 10. Calendar of trials postponed.
„ 11. Annual statement of persons confined in jail on requisition of security for good conduct.
„ 12. Statement of the average time occupied in the disposal of cases.
„ 13. Particulars regarding persons employed as punchayet, assessors and jury, under Regulation VI. of 1832.
„ 9 A. Statement of appeals from the decisions of the assistant, &c. to be submitted where there may be two or more magistrates under the same session judge.

MAGISTRATE'S STATEMENTS.

No. 1. Parts 1 to 8. Statement of crimes committed, and persons under trial, convicted, committed, and acquitted, during the month or year.
„ 2 „ 1 and 2. Detail of headings 41 and 42 of statement No. 1.
„ „ 3. Disposal of the prisoners and casualties.*
„ 4 and 5. Persons in custody in default of security for good conduct.
„ 6. Persons in custody in default of security to keep the peace.
„ 3. „ 1 and 2. Prisoners under commitment when the statement closed.

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*By paragraphs 115 and 116 of the Rules for the preparation of Magistrate's Statements, an *Abstract of the Magistrate's Diary of Witnesses in attendance*, was substituted for the above-mentioned.

No. 4. Abstract statement of summary suits for forcible dispossession, under Act IV. of 1840.
„ 5. Statement of prisoners whose cases were under reference to the Nizamut Adawlut.
„ 6. Abstract statement of criminal business disposed of and pending.
„ 7. Abstract of the calendar of persons convicted, committed, and acquitted by the magistrate, joint magistrate, &c.
„ 8. Average period which intervened between the date of apprehension or summons and disposal of the cases in the magistrate's court.
" 9. Statement of the appeals preferred from the orders of the assistant, principal sudder ameen, &c.

RULES

FOR THE PREPARATION

OF

SESSION JUDGE'S STATEMENTS.

SESSION JUDGE'S STATEMENT NO. I.

MONTHLY AND ANNUAL.

PART I.

Officers Employed.

1. THE rules detailed in paragraphs 1 to 5 of the remarks relating to the magistrates' statements, regarding the reports to be made and the forms to be observed on the occasion of changes of officers, will be equally applicable to the session judges.

C. O. 5th Dec. 1834, No. 157, L. P.
" 7th Nov. " " W. P.
" 23rd Jany. 1835, " W. P.

2. Whenever a session judge delivers over charge of the current duties of his office to an officer, not authorised to act as judge, he will call the attention of the relieving officer to the rules which define and limit the functions he is competent to discharge, as well as to the preparation and transmission of such statements and reports as the session judge may, under the rules in force, be required to submit to the Nizamut Adawlut, or to Government, as the case may be.

C. O. 6th February, 1835, No. 161, L. P. and W. P.

Columns 1, 2, 3 *and* 4.

3. These columns should present a transcript of columns 22, 23 and 24, of the statement relating to the period preceding that under report.

Column 5.

4. This column should be an exact counterpart of column 12, part 1, of the magistrates' Statement No. I, part I.

Session Judge's Statement No. 1—Monthly and Annual.

5. Until the receipt of the roobukaree, which the magistrate is required, by paragraph 24 of the rules prescribed for his guidance, to send at the close of each month to the session judge, that officer should not prepare his Statement No. I.

C. O. 27th Nov. 1835, No. 185, W. P.
" 15th Jany. 1836, " 190, L. P.
" 15th July " " 201, W. P.

6. Session judges are required, on first taking up a trial, carefully to compare the written charge on which the prisoner is committed, with the facts of the case as stated in the magistrate's roobukaree of commitment, and, in that stage of the proceedings, to cause the latter to rectify errors or supply omissions. When, therefore, it may be necessary to direct any alteration of the charge on which a prisoner may have been committed, the session judge will distinctly indicate, in his order to the magistrate, the specific heading and number under which the case should be included in his Statement No. I, Part I ; and the session judge will postpone entering the case in his own Statement No. I, until he receives intelligence from the magistrate of the order having been carried into execution. [See rule 63.]

C. O. 22nd Feby. 1833, No. 135.

7. A case is to be considered as pending before the sessions court, from the date of the commitment, of which the magistrate is required to give immediate notice to the session judge. The case should be regularly entered in the calendar of postponed trials, until finally disposed of by an order for conviction or acquittal, or by a reference to the Nizamut Adawlut. The same rule will apply whether the decision of the case may have been delayed, in consequence of further proceedings having been called for, or owing to the session judge not having entered upon it, or not having had time, after commencement, to complete it before the close of the month, or by the operation of any other cause.

C. O. 27th Nov. 1835, No. 185, W. P.
" 14th Oct. 1836, " 208, L. P.
" 16th Dec. " " " W. P.
" 30th Sept. " " 205, L. P.

Columns 6 and 7.

8. Cases remanded for further investigation or from other cause, and the persons appertaining thereto, will be entered in these columns.

9. Whenever a case originally referred to or called for by the Court, has been sent back to a session judge, he will report in the next letter submitting his monthly jail delivery statements, whether the further inquiry has been completed or not, and, if not, explain the causes which have prevented its completion ; and he will continue to do so every month, until the further investigation has been completed, and the proceedings transmitted to the Court, which fact will also be duly noticed.

C. O. 24th Octr. 1834, No. 152, L. P. and W. P.

Session Judge's Statement No. 1—*Monthly and Annual.*

Columns 8 *and* 9.

10. Will be filled up in accordance with paragraph 16 of the magistrates' rules.

Column 10.

11. Will show the aggregate of columns 3, 4, 5, 7 and 9.

Columns 11 *and* 12.

12. It has been determined that, under the spirit of the Regulations in force, session judges are competent, under certain circumstances, to cancel commitments made by the magistrates of their respective zillahs; but they are required to use the greatest caution in exercising this power, and, on each occasion of having recourse to it, to submit an English report, detailing their reasons for following that course, to the Nizamut Adawlut.

C. O. 16th July 1830, No. 54, para. 19.
" 20th July 1832, " 111.

Columns 13 *and* 14.

13. The entries in these columns should be made in accordance with the principle laid down in paragraph 9 of the rules applicable to the magistrates' statements.

Columns 15 *and* 16.

14. Cases regularly referred for the final orders of the Nizamut Adawlut, under the law, should be exhibited in these columns, but not those which may have been called for by the Court.

Columns 17 *and* 18.

15. The proper entries in these columns are sufficiently denoted by the headings.

16. Session judges will notice, under the head of "Remarks," whenever the number of persons acquitted may greatly exceed the number of persons convicted, adding a brief statement of the probable causes which may have conduced to such a result.

C. O. 9th June 1837, No. 234, L. P.

Columns 19 *and* 20.

17. The use of these columns is sufficiently indicated by the headings.

Session Judge's Statement No. 1—Monthly and Annual.

Column 21.

18. The principle laid down in paragraph 28 of the magistrates' rules will regulate the entries in this column.

Columns 22, 23 and 24.

19. The principle contained in paragraphs 29, 30 and 33, of the magistrate's rules, should be followed, so far as they are applicable, in filling up these columns.

PART II.

Under Trial.

20. The entries under this head will, during the month and at the close, be governed by the principle laid down in paragraph 74 of the magistrates' rules.

PART III.

Convicted and Sentenced.

21. The 1st and 2nd of the items, in the detail of years, given in this part, are intended to provide for cases in which the session judge may direct an additional period of imprisonment, in lieu of corporal punishment, beyond the extreme limit of imprisonment which he is competent to award under the law.

22. The total of this part should correspond with the total of convictions in column 14, part I.

PART IV.

23. In this part will be entered the total amount of fines imposed, under Regulation II. of 1834, during the period to which the statement has reference, and the whole amount of fines realized under the Regulation cited, in whatever month they may have been imposed.

PART V.

24. With the exception of abridging the headings, no alteration has been made in this statement.

25. The session judges, who have more than one magistrate or joint magistrate possessing separate jurisdiction, subject to their authority, will, with statement No. I, which includes the commitments of all the lower tribunals,

C. O. 27th Nov. 1835, No. 185, W. P.
" 15th Jan. 1836, No. 190, L. P.

Session Judge's Statements Nos. 1, 2, 3 and 4—Monthly and Annual.

send a separate statement for each magistracy or joint magistracy, in order that, in the event of any discrepancy, it may readily be traced to the zillah in which it occurred, and by a reference to the proceedings of that district be immediately corrected.

Part VI. (See Rule 64.)

SESSION JUDGE'S STATEMENT No. II.

MONTHLY AND ANNUAL.

PARTS I. AND II.

26. The entries in these parts will be governed by the principle laid down in paragraphs 61 and 62 of the magistrates' rules.

SESSION JUDGE'S STATEMENT No. III.

MONTHLY AND ANNUAL.

PART I.

27. This part will be filled up monthly and annually.

PART II.

28. It will not be necessary to fill up this part in submitting the annual statements, but the information indicated by the headings should be given every month, and the number of persons should correspond with the number shown in part I.

SESSION JUDGE'S STATEMENT No. IV.

MONTHLY AND ANNUAL.

Columns 3 and 10.

29. Columns 3 and 10 should furnish a record of all appeals from orders of magistrates, passed in criminal cases, in which the defendants may have been summoned or apprehended, and which have been entered by that officer in the current or preceding month's statement No. I.

Session Judge's Statements Nos. 4 *and* 5—*Monthly and Annual* —*and No.* 6—*Monthly.*

Columns 11 *to* 18.

30. These columns will be appropriated to the exhibition of appeals of every description from orders of the magistrates, which under the law are cognizable by session judges, comprehending all cases not susceptible of entry in the magistrate's statement No. I. [See also rule 55.]

SESSION JUDGE'S STATEMENT No. V.

MONTHLY AND ANNUAL.

Abstract of Sessions Operations.

31. This statement supersedes the memorandum contained in the letter reporting the close of sessions.* The entries in the first column will represent the number of cases on the file of the sessions court in the course of the month, the number decided during that period, and number pending at its close. The entries in column 2 will correspond with the aggregate of columns 3 and 4, the totals of columns 5, 7, 9, 10, 12, 14, 16, and 18 to 21, and the aggregate of columns 23 and 24 of statement No. I, part I, and the total of column 3, with the aggregate of columns 2 and 3, heading No. 5, statement No. I, part II.

* See Rule 54.

SESSION JUDGE'S STATEMENT No. VI.

MONTHLY.

Column 1.—*Prisoners punished without reference to the Nizamut Adawlut.*

32. This statement, with the exception of columns 1 and 3, which have now been added, is the same as that which has hitherto been in use. The object of column 1, (the numbers entered in which should represent the numerical order in which the trials were decided at any given jail delivery,) is to enable the Court to identify a case in statements Nos. 6 and 7, in which some of the prisoners may have been convicted and others acquitted or referred: the number borne by any case of this mixed character, will accordingly be the same in each of the statements.

Session Judge's Statements Nos. 6 and 7—Monthly.

Column 2.

33. In column 2 should be inserted the number borne by the prisoner in the session judge's record of trial, and, being intended more precisely to indicate the individual regarding whom explanation may be required by the Superior Court, on inspection of the statement, or whose cases may be called for, the greatest accuracy is essential in the entries of this column. [See also rules 56 to 61.]

Column 3.

34. Column 3 is inserted for the purpose of tracing the case in the session judge's statement No. 1: accordingly, the number entered in this column will correspond with the number of the offence under which the prisoners may have been brought on in statement No. 1. The total number of persons shown in this statement should correspond with the number entered in column 14 of the session judge's No. 1. [See also rules 56 to 61.]

SESSION JUDGE'S STATEMENT No. VII.

MONTHLY.

Columns 1 to 3—Criminal Trials regularly referred to the Nizamut Adawlut.

35. The remarks contained in the two preceding paragraphs apply to the first three columns of this statement also. Those cases alone, in which the session judges are not competent under the law to pass a final sentence, but are required to submit the case for the final orders of the Nizamut Adawlut, are to be entered in this statement. Cases which may be called for by the Court on inspection of the monthly returns, or in the presentation of a petition, will not be entered in this statement.

Columns 15 and 16.

36. The final roobukaree of the trial of a case should invariably record the order for referring the case to the Superior Court; and the date of such roobukaree should be entered in the first of these two columns; and in the second should be entered the date of the letter which accompanies the references to the Nizamut Adawlut.

37. Session judges will enter the particulars in the first 16 columns of this statement, and leave the remaining columns to be filled up in the office of the Nizamut Adawlut.

C. O. 21st Nov. 1834, No. 154, L. P.
„ 6th Feb. 1835, „ W. P.

Session Judge's Statements, Nos. VIII. and IX.—Monthly.

SESSION JUDGE'S STATEMENT No. VIII.

MONTHLY.

Prisoners acquitted by the Session Judge.

38. The principles contained in paragraphs 32, 33 and 34, apply equally to the first three columns of this statement; the total number of persons exhibited in which should correspond with the total of column 18 of session judge's statement No. I., part I.

39. Instances having occurred of functionaries in charge of the office of the session judge, forwarding statements of prisoners punished without reference, or acquitted by the session judge, with the column of "explanation and remarks" blank, in consequence of the absence of the session judge on leave; the Court direct that the session judges will in all possible cases prepare the statements before they avail themselves of their leave, or furnish the officer in charge with a certificate of the cause of their inability to do so, to be submitted with the statements.

C. O. 12th Feb. 1836, No. 193, L. and W. P.

SESSION JUDGE'S STATEMENT No. IX.

MONTHLY.

Cases called for by the Nizamut Adawlut.

40. In this statement will be entered all cases submitted to the Nizamut Adawlut in conformity to special calls made for their transmission, as distinguished from such cases as are regularly referred under the law, which are entered in statement No. VII.

41. The principles contained in paragraphs 32, 33 and 34, have application to columns 1 to 3 of this statement likewise. Columns 1 to 17 will be filled up by the session judge, and the remaining columns in the office of the Nizamut Adawlut.

Column 16.

42. In filling up this column, the session judge will be careful to distinguish between calls made by letter and those made by precept, thus:

C. O. No. 203, dated 16th Sept., 1836, L. P.

By letter dated 9th September 1839, No. 1760.

By precept dated 10th September 1839, No. 602.

Session Judge's Statements No. X.—Monthly, and No. XI.—Annual.

SESSION JUDGE'S STATEMENT No. X.

MONTHLY.

Postponed Trials.

43. All trials in which the final sentence has not been passed up to the close of the month, should be entered in this statement, under the rule laid down in paragraph 7. Such entry should be regularly repeated until they may have been finally disposed of by an order for conviction or acquittal, or by a reference to the Nizamut Adawlut. The total number of persons, as shown in this statement, should correspond with the total number contained in columns 23 and 24 of the session judges' statement No. I., part I, and with heading 3, columns 2 and 3, part II., of the same statement, and with the total of column 3 of the magistrates' statement No. III., part I.

C. O. 9th June 1837, No. 234, L. P.

44. The session judge will annex his remarks, explanatory of any delay that may have occurred in disposing of the commitments.

C. O. 16th Jany. 1833, No. 132.
" 30th Sept. 1836, No. 205, L. P.

45. It being necessary to provide against the prolonged confinement of prisoners, in cases postponed by session judges, and also to afford sufficient time to procure the attendance of the necessary witnesses, the Court direct that no criminal trial shall be postponed by a session judge beyond the session of jail delivery which may be held next after the expiration of the period of six months from the date of commitment, except when, for special reasons, the session judge may be of opinion that it should be again postponed, when he will report the circumstances under which it has already been postponed, and the grounds on which he has formed his opinion, for the orders of the Court.

SESSION JUDGE'S STATEMENT No. XI.

ANNUAL.

46. This statement is the same as that which has hitherto been in use, and calls for no remark. [See also rule 65.]

Session Judge's Statements Nos. XII. and XIII.—Annual, and No. IX. A—Monthly and Annual.

SESSION JUDGE'S STATEMENT No. XII.

ANNUAL.

47. In this statement will be entered all cases recorded as disposed of in statement No. 3, but not the appeals from the magistrate and his subordinates. The headings of the several columns sufficiently indicate their application, and render any rules unnecessary.

SESSION JUDGE'S STATEMENT No. XIII.

ANNUAL.

48. This new statement is intended to exhibit the principle of selection of individuals to act as jury or assessors, under Regulation VI. of 1832, in the conduct of criminal trials, by a reference to the rank, profession, and other similar particulars, of persons so selected, calculated to illustrate the working of the system, and the degree of success attending the practical application of the law.

SESSION JUDGE'S STATEMENT No. IX. A.

MONTHLY AND ANNUAL.

49. Session judges with more than one magistrate subordinate to them, will embody the information in the several returns No. 9, of the magistrates, in the form given in statement No. IX. A. for submission to the Nizamut Adawlut; and session judges with only one magistrate under them, will require that officer to submit two copies of No. 9, one of which will be recorded in the sessions court and the other submitted to the Court.

General Remarks.

50. It is incumbent on session judges carefully and promptly to revise the statements submitted to them by the magistrates, and immediately to notice any irregularity or excess of power exhibited in those returns, calling for, and demanding, explanations when necessary, and pointing out any errors that may be apparent in them; and in forwarding the explanations of the magistrates or joint magistrates, session judges must

C. O. 15th Jany 1836, No. 190, L P.
" 15th July, 1836, No. 201, W. P.

invariably state whether they consider them to be sufficient or otherwise.

51. In regard to the statements submitted to the Nizamut Adawlut through the session judges, those officers should not consider themselves as merely the channel of transmission. The statements, after revision, should not only convey the necessary local information, but afford proof of the revising officer's attention having been vigilantly directed to the proper use of the information so supplied, which consists in the timely notice of those errors or excesses of authority that it may bring to light; and the Court request, therefore, that the session judges will note upon the statements any orders they may have issued in regard to them, and submit copies of any correspondence which may have taken place with the magistrate or joint magistrate on the subject.

C. O. 9th June 1837, No. 234, L. P.

52. If session judges do not act thus, they not only fail to discharge the functions belonging to their office, to the detriment of their local utility in controlling the magistrates; but the correction of the errors is retarded until the inspection of the statements by the Nizamut Adawlut, and until the issue and transmission of the orders required on them. The time and attention of the Nizamut Adawlut are thus occupied by topics which, though in themselves of high importance, can be more effectually treated and disposed of by the local authorities.

53. Session judges will take measures to secure the punctual despatch of the statements at the prescribed periods: the main object of reports of this nature is defeated by their not being submitted to the authority by whom they are to be revised, immediately after the close of the period to which they refer; and it is expected that in future the monthly and half-yearly statements will be submitted within fifteen days after they have become due (vide paragraph 5 of the magistrates' rules) and the annual ones on or before the 1st of February of each year.

C. O. 27th Nov. 1835, No. 185, para. 14, W. P.

54. In submitting their monthly statements, the session judges will continue to accompany them with a letter reporting the close of the session, in the form given below,* which, with a slight modification, is the same as the one heretofore in use. The information formerly contained in the memorandum appended to the letter, being now furnished in statement No. V., will be omitted here. [See rule 62.]

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* *No.*——

To the Register of the Court of Nizamut Adawlut, Lower (or North-Western) Provinces.

SIR,

I have the honor to report, for the information of the Court of Nizamut Adawlut, that I held sittings in the sessions court on the 10th, 11th, 18th, 24th, 25th, 26th, 27th, 28th and 29th, a period of nine days of the month

Supplementary Rules.

55. Appeals instituted under Act IV. of 1843, from orders passed by magistrates in the exercise of the powers vested in them by Act 53, George III. Chapter 155, and also from those passed by them as justices of the peace, will be included in the first section of statement No. IV. ; and with a view to the eventual information of Government, respecting the working and effects of the law first cited, a note will be appended in the column of remarks distinguishing those two classes of appeals from ordinary cases.

Statement No. IV.

56. It appearing to the Court that the rules* regarding the numbers to be borne by the prisoners and cases, respectively, in the session statements, are defective, and that a want of uniformity is the result, the following instructions are supplied.

These instructions supersede the Circular Orders of the presidency Court, dated 14th July and 24th November 1843, and 23rd February 1844.

57. All prisoners committed by a magistrate, in any one month, are numbered by that officer in his calendar of commitments in one continuous series, commencing and terminating with the month, the last serial number indicating the number of persons committed during that period. These numbers should be carefully retained by the session judge in column 2 of his statements Nos. VI. to IX., and column 1, statement No. X., as the case may be.

Statements Nos. VI. to X.

Each magistracy will have a separate monthly series of numbers for prisoners committed to the sessions court, so that, if a session judge has three magistracies under him, there will be three series of numbers for prisoners. In districts where there may be two or more

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of ———— 184—, during which time I examined 83 persons, and to submit the following statements connected therewith:

Nos. 1 *to* 6 *and* 9 *Magistrates' Statements.*

,, 1 to 5, Statement of persons brought to trial, detained on requisition of security, appeals, &c.

,, 6. Statement of prisoners punished without reference.

,, 7. Register of criminal trials referred to the Nizamut Adawlut.

,, 8. Statement of prisoners acquitted by the session judge.

,, 9. Register of criminal trials, for the submission of which to the Nizamut Adawlut orders have been received during the month.

,, 10. Calendar of trials postponed.

Roobukarees of the magistrate and futwas of the law officers, or verdict of assessors or jurors.

I have, &c.,

Sessions Judge.

OFFICE OF SESSIONS JUDGE,
ZILLAH————
The————184—.

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* See Rules 32 to 44.

Supplementary Rules.

officers, vested with the full powers of magistrate, the magistrate of the district will number in one series the whole of the prisoners committed by himself and his subordinates in any one month, and, to enable him to do this, will require the officers who have the power of making commitments, to furnish him with a report of the number of commitments made by each and the number of prisoners in each case.

58. With the object of bringing the particular series, to which such prisoners belong, more distinctly into view, session judges will note under each case, in column 1 of statements Nos. VI. to IX., the month in which it was committed.

59. The disposals by the session judge in any one month will prescribe the serial numbers to the cases, each series commencing with the first and terminating with the last case decided in each sessions, and the last number of the series being equal to the number of cases disposed of in the same period.

Statement No. X.

60. Under the above rules, the cases entered in statement No. X. will be necessarily unprovided with numbers, and hence no column is assigned to that purpose.

61. It is essential to the formation of a just estimate of the discretion exercised by the several officers, vested with the power of making commitments to the sessions, that the name of the committing officer should be recorded in each case, and this not only in one statement, but in all in which such case may appear. This practice, however, has not been strictly and generally observed, owing, it is apprehended, to the absence of specific direction to that effect in the rules framed for the preparation of the session statements, which assume that the session judges are familiar with the scope and object of such record. To leave no doubt on the subject, the Court are pleased to direct that session judges, when preparing their returns for submission to the Court, will invariably specify in each of their statements, *i. e.*, in column 9 of statements Nos. VI. and VIII., in column 13 of statements Nos. VII. and IX., and in the 1st section of column 3, statement No. X., not only the official designation, but the name also of the committing officer.

62. The Court are pleased to direct that, when there may be no matter for entry in any of the session forms, submitted to this Court, session judges will pass their pen through the designation of such statement or statements in the letter prescribed by paragraph 54 of the rules, and that they will discontinue the transmission of blank returns, as heretofore usual in some districts.

Statement No. I.

63. The entries under headings Nos. 3, 31 and 32, of statement No. I., part I, will be governed by the principle laid down in paragraph 135 of the magistrates' rules.

Supplementary Rules.

64. The use of the subjoined form of Statement is prescribed in order to show the manner in which Act XVI. 1850 is applied, and will occupy the space below part 4, No. 1. [L. P. 13th May, 1851, No. 58.]

Statement No I, Part VI.

Form of Part 6. *Operation of Act XVI.* 1850.

1.	2	3	4.	5.	6	7.	8.	9.	10	11.	12.
Exceeding Rupees.						Not exceeding Rupees		Total		Amount realized in the month.	Amount paid to injured parties in the month
1,000		500		100		100					
Persons	Amount	Persons	Amount.	Persons	Amount	Persons	Amount.	Persons	Amount		

65. In order that Statement No. XI. might be prepared in an uniform manner, the Court direct that it should include all persons confined in the zillah jails on requisition of security for good conduct or to keep the peace, the total number of whom will therefore correspond with the aggregate of persons shown in Parts 4 and 6 of the magistrate's statement, No. II. [W. P. 21st October, L. P. 23rd November 1852 No. 95]

Statement No. XI.

RULES

FOR THE PREPARATION

OF

THE MAGISTRATE'S STATEMENTS.

MAGISTRATE'S STATEMENT No. I.

MONTHLY AND ANNUAL.

PART I.

Officers Employed.

1. UNDER this head should be entered the name of the officer emlpoyed and his official designation, and, if any changes have taken place, the date of each officer's entering on office, and the date of his delivering over charge. [See rules 112, 113.]

2. Each such change should be immediately reported direct to the Nizamut Adawlut, by the magistrate or joint magistrate delivering over and receiving charge; and the magistrate will, in like nmaner, report the occurrence of all such changes among his assistants.

3. A copy of the order under which an officer may deliver over charge of his office, need not accompany the report; but the authority for so doing, the date of order, and the nature of the power vested in the relieving officer, should be stated in the report.

C. O. 5th Dec. 1834, L. P. ,, 7th Nov. 1834, W. P. ,, 23rd Jany 1835, } No. 157.

4. Magistrates and joint magistrates, on delivering over charge of their offices, are required to furnish the relieving officer with a list of all unanswered letters, and of all periodical reports and statements which, having become due, have not been forwarded to the Court. A certificate of this list having been severally given and received, will accompany the report required by paragraph 2.

C. O. 25th Sept. 1835, No. 179.

5. Periodical reports and statements are to be considered as due immediately on the expiration of the month, quarter, half year, or year, to which they relate.

Magistrate's Statement No. I.—Monthly and Annual.

Description of Crimes.

6. The Court have had frequent occasion to notice the loose and immethodical manner in which magistrates enter an offender in this statement. Instead of recording him under the heading provided for his offence by the statement, he is frequently entered under a new heading introduced into the miscellaneous class, in terms unnecessarily detailed. For example, the designation "killing by shooting with a matchlock with previous intent to kill," is perhaps resorted to, when the term "wilful murder" both represents the offence with greater accuracy and precision, and is more consonant with usage. By increased attention to the systematic classification of offenders,* with reference to the offences with which they stand charged, the Court are of opinion that the catalogue of miscellaneous offences is susceptible of being much reduced.

7. From the vague and ill-expresed wording of the headings meant to designate miscellaneous offences, it is moreover apprehended that these entries are often the result of a *merely literal* translation from the Urdu catalogue of offences made in the office of the magistrate, who ought, however, to satisfy himself that such translations represent the offences in an idiomatic and intelligible way.

8. It not unfrequently happens that a party, brought before the magistrate for a particular offence, on investigation by that officer, is ascertained to have been guilty of another of a graver character on which the magistrate convicts or commits him; but there does not appear to be any uniform and fixed principle of entering such cases in the periodical statements. To supply this defect the Court of Nizamut Adawlut are pleased to direct that the statements shall be prepared in accordance with the following rules.

9. When, out of several individuals apprehended and sent in, in any one case, some are convicted or committed for various offences, and some are acquitted, the whole of the prisoners implicated in the case should be entered in the 10th and preceding columns, under the heading which designates the gravest offence for which one or more of them may have been sent in; the acquittals being noted in column 13 under that offence, and the convictions in column 11 under the lesser offence or offences of which they may be respectively found guilty by the magistrate, a note being also furnished under the head of "remarks," indicating the particular heading under which the offender originally appeared, and the commitments in column 12 under the gravest crime for which it may be thought proper to commit one or more individuals in the case. [See rules 90 and 135.]

10. In like manner, when one or more offenders stand charged with more than one offence, partaking of the same character, they should be entered in the 10th and preceding columns under the graver

* See Rules 143 to 150.

Magistrate's Statement No. 1.—Monthly and Annual.

offence, regard being had to the rule contained in paragraph 9, concerning the mode of exhibiting them after disposal.

11. When one or more persons are concerned in two or more cases of different characters, they will be entered in the 10th and preceding columns, under the distinct headings applicable to such cases, the mode of entering them after disposal being the same as that indicated in paragraph 9.

12. When the crime in all the cases is identical, the number of entries of the persons will correspond with the number of cases. [See rule 95.]

Column 2.—Number of Crimes ascertained to have been committed.

13. In this column should be included the whole of the crimes ascertained to have been committed during the period to which the statement relates, whether the offenders have been apprehended or not; and magistrates are not to confine themselves for information on this point to the reports of their police officers, but ought to acquire a more accurate knowledge from other channels; and landholders and farmers and their local agents should especially be encouraged to furnish immediate intelligence of all heinous crimes committed within the limits of their respective estates and farms. [See rule 89.]

C. O. 13th Novr. } 1837, No. 249.
,, 8th Decr. }

C. O. 15th Augt. 1809, No. 54.

Columns 3, 4 and 5.—Under trial at the commencement of the month or year.

14. These columns should exactly correspond in details and totals with columns 17, 18 and 19, respectively, of the statement for the period preceding that reported upon.

Columns 6 and 7.—Number of cases and persons brought to trial.

15. In these columns should be entered all cases of complaint lodged in the magistrates' court during the period embraced by the statement, whether the individuals concerned may have been under personal restraint, held to bail, at large on their own recognizance, or merely attending on summons; and the total of column 7 should correspond with the third or total column of statement No. I., part II. [See rules 91 and 94.]

Magistrate's Statement No. I.—Monthly and Annual.

Columns 8 *and* 9.—*Received by transfer.**

16. These columns should exhibit such cases and prisoners as may have been made over by the authority of another jurisdiction or power, to the magistrate, for disposal; and in the "remarks" the names of the districts, jurisdictions, or powers, should be carefully noted, to enable the Court to ascertain that they have been correctly entered in the statements of the transferring district, if within the jurisdiction of the Court, or that the discrepancy may be accounted for if transmitted by an authority not under the control of the Court.

Column 10.—*Total number of persons under trial.*

17. The aggregate of columns 4, 5, 7 and 9, should be exhibited in this column.

Column 11.—*Convicted.*

18. In filling up this column, regard should be had to the rule contained in paragraph 9, whenever the same may be applicable. [See also rule 151.]

Column 12.—*Committed.*

19. The remark in the preceding paragraph applies to this column also. Some magistrates are in the habit of committing prisoners on a charge of "affray with murder;" but if the offence be attended by any aggravating circumstances, rendering it doubtful whether the killing did not amount to murder, the commitment should be for "murder," the charge of "affray with homicide" furnishing a second count.

C. O. 27th Nov. 1835, No. 185, para. 7, W. P.
,, 15th Jany. 1836, No. 190, ,, 13, L. P.

20. Others, again, enter cases of "killing thieves" in the detail of heading 41 (miscellaneous of the former statement.) Such cases, however, except when accompanied by aggravating circumstances warranting a commitment for murder, (in which event a note should be given under the head of "remarks," stating that the party killed was a thief, slain in the act of committing a burglary, or theft, as the case may be,) should be entered under heading 5, or "culpable homicide."

C. O. 15th April 1836, No. 196, L. P.
,, 27th May 1836, No. 199, W. P.
,, 8th July 1836, No. 200, L. P.

21. Where there is any doubt as to whether the accused is guilty of a higher or lower grade of an offence of the same character, the commitment should be for the higher grade. Thus if

C. O. 16th July 1830, No. 54, para. 16.

* See note to para. 28.

Magistrate's Statement No. I.—Monthly and Annual.

it be doubtful from the evidence before the magistrate whether the offence amounts to murder or only to culpable homicide, the commitment should be for murder. On the other hand, where a doubt exists as to whether a commitment should be made for knowingly receiving plundered property or for the actual robbery, the prisoner should be committed on both counts, and entered under the heading of the more heinous charge of robbery.

22. Magistrates are required, whenever they may commit a prisoner for trial, immediately to intimate the same to the session judge; and the observance of this rule, the Court remark, is of importance, as it is calculated to ensure uniformity between the magistrate's statement No. I., and the session judge's No. I. (submitted to the Nizamut Adawlut). The roobukaree containing this information, which should be written and despatched as soon as the commitment has been made, should specify the precise charge on which the prisoner or prisoners have been committed, the number that the offence bears in the statement, and an abstract of the grounds of the commitment.

C. O. 22nd June 1832, No 109, L. P. and W. P.
,, 27th Nov. 1835, No. 185, W. P para. 2.
,, 15th Jan. 1836, No. 190, L. P. ,, 8.

23. Should the session judge see reason to direct any alteration of the charge on which a prisoner may have been committed, he will distinctly state in his order the heading and number under which the case should be included in the statement; to which order the magistrate will conform, by removing the prisoner from the heading under which he was originally committed in column 12, and entering him in the same column under the heading indicated by the session judge; but no alteration must be made in any of the other columns. The magistrate will give immediate notice to the session judge that he has carried the order into execution.

C. O. 27th Nov. 1835, No. 185, para. 3.
,, 15th Jan. 1836, No. 190, ,, 9.

24. On the 1st of every month the magistrate or joint magistrate will send a roobukaree to the session judge, certifying whether any and what new commitments or modifications of former ones have been made in the month just closed, subsequent to those of which previous intimation had been given.

C. O. 27th Nov. 1835, No. 185, para. 4.
,, 15th Jan. 1836, No. 190, ,, 10.

Column 13.—*Acquitted.*

25. The rule contained in paragraph 9, in regard to acquittals, should be observed in making the entries in this column.

Cases of zemindars and other landholders, burkundazes, chowkeedars, and other officers of police, who may have been summoned to the sudder station to answer for neglect of duty, and discharged after admoni-

tion, as well as those of persons released on mochulka when not convicted of any specific offence, shall be entered under the head "acquitted," a note being added in the "remarks" to distinguish the number of prisoners so discharged, from those who may have been otherwise acquitted. [See rules 92, 93 and 151.]

Column 14.—*Died.*

26. The deaths of such offenders as may die prior to a sentence being passed in their cases, are to be recorded in this column, under the heading designating the crimes with which they stood respectively charged.

C. O. 15th Jan. 1836, No. 190.
,, 15th July 1836, No. 201.

Column 15.—*Escaped.*

27. Prisoners who may have effected their escape, as well as offenders who, being at large on bail, recognizance, or under summons, may have absconded prior to the decision of their cases, should be entered in this column under the headings appropriated to the crimes with which they were respectively charged.

Column 16.—*Transferred.**

28. Prisoners apprehended in the district and made over for trial to another district or authority, whether within the jurisdiction of the Nizamut Adawlut or beyond its control, should be entered in this column, and the names of the districts or authorities, to whom they have been transferred for trial, should be carefully noted in the remarks, to enable the Court to ascertain that such offenders have been duly accounted for in the statement of the receiving authority, if under the control of the Nizamut Adawlut, or, if not subordinate to the Court, that the cause of the discrepancy necessarily arising, may be apparent.

Column 17.—*Cases under trial at the close of the month or year.*

29. Cases of every description which may be pending at the close of the month or year, should be exhibited in this column.

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* As commitments made by Officers in charge of thannahs of several zillahs are sometimes transferred for trial to a zillah other than that in which the crime was perpetrated, the Court direct that such commitments be entered in column 16 ("transfer") of statement No. I. of the district in which the crime was committed, and in columns 8 and 9 ("received by transfer") and 12 ("committed") of statement No. 1 of the district in which the commitments are to be tried, a note being added in each statement explanatory of the circumstances of the case.

C. O. 30th April 1847, L. P.

Magistrate's Statement No. I.—Monthly and Annual.

Column 18.—*Prisoners in Jail at the close of the month or year.*

30. The number of prisoners in duress at the close of the month, whose cases were still pending, is to be shown in this column. The total however will not invariably represent the actual number of prisoners in confinement, (which will be shown in part VIII,) but may frequently be in excess of that number, in consequence of one or more prisoners being implicated in more than one case.

31. When the true number of prisoners under trial in jail, as shown in part VIII, statement No. I, may exceed 50, an explanation of the cause should be given under the head of "remarks."

C. O. 15th Jany. 1836, No. 190, L. P. para. 21.
,, 15th July 1836, No. 201, W. P. ,, 6.

32. In all complaints for offences which are clearly bailable, the magistrate is required to apprise the party that security will be received for his appearance, and at the same time to state the amount; and whenever any persons charged with bailable offences are detained in jail, the grounds of their detention should be stated under the head of "remarks."

C. O. 10th Jany. 1823, No. 272.

Column 19.—*Persons on Bail at the close of the month or year.*

33. All persons whose cases were pending at the close of the period reported on, whether the individuals had been released on bail or personal recognizance, or were simply attending on summons, are to be entered in this column. The nominal excess, noticed in paragraph 30, may frequently occur here also. Persons who have given bail or mochulka to keep the peace, or to refrain from any act, in cases finally disposed of, are not to be entered in this column.

C. O. 15th Jany. 1836, No 190, L. P. para. 22.
,, 15th July 1836, No. 201, W. P. ,, 7.

34. Magistrates will submit explanations whenever the real number of persons in attendance to answer charges on bail, mochulka, or summons, as shown in part VIII, statement No. I, may exceed 100.

General Remarks.

35. It will be observed that the aggregate of columns 11 to 16 and columns 18 and 19 will correspond with the total in column 10 as regards each crime, except where persons, having been charged with one offence and convicted or committed on another, are transferred under the rule contained in paragraph 9; but the aggregate of columns 4, 5, 7 and 9, must always correspond with the grand total of column 10.

Magistrate's Statement No. I.—Monthly and Annual.

36. Complaints by petition rejected, on whatever grounds, by the magistrate, without apprehending or summoning the party complained against, will not be entered in this part.

PART II.

Column 1.—*Apprehended and Summoned by the Police Officers.*

37. The first column of this part should exhibit the total number of persons apprehended and sent in by the police officers, or from whom bail may have been taken by them of their own authority.

Column 2.—*By the Magistrate and his Subordinates.*

38. All persons attending on summons before the magistrate or his subordinates, as also such persons as the police officers may have been ordered to send in, in consequence of information received by the magistrate independently of those officers' reports, (in which latter case a note to that effect should be furnished in the column of "remarks,") should appear in this column.

Column 3.—*Total of apprehensions and attendances on Summons.*

39. This column should exhibit the total of the two preceding columns, and should correspond with the grand total of column 7, part I.

PART III.

40. The object of this part is to enable the magistrates and the superior courts to exercise a more efficient supervision and control over the proceedings of the police officers in the performance of the very important duty entrusted to them, of taking cognizance of criminal offences, to which subject the Court request the particular attention of the officers concerned.

C. O. 15th Nov. 1837, No. 2. W. P.

Heading 1.—*Apprehended at the Thannah.*

41. Under this heading should be shown the total of all offenders apprehended at the thannah.

Headings 2, 3, 4 *and* 5.

42. The details of these headings sufficiently indicate what they are severally intended to represent; their aggregate should corres-

Magistrate's Statement No. I.—Monthly and Annual.

pond with the number under the 1st heading of this part, and the aggregate of headings 2 to 4 with the 1st column of part II. [See rules 107 and 108.]

PART IV.

43. The object of this part is to show the quantity of work performed by each grade of officers. The total of column 2 will correspond with the aggregate of columns 11, 12 and 13, part I.

Column 1.—*Cases disposed of.*

44. The number of cases in which the persons entered in columns 11, 12 and 13, of part I, were implicated, should be distributed among the several grades of officers enumerated, in the proportion of their decisions, being entered under their respective designations in this column.

Column 2.—*Persons disposed of.*

45. A similar distribution to that prescribed in the preceding paragraph should be made of the persons contained in columns 11, 12 and 13, and entered in column 2.

PART V.

Section 1.

46. The total of column 1 should correspond with the total of column 17, part I; the total of column 2 with the total of column 18, part I; and the total of column 5 with the total of column 19, part I.

Section 2.

47. In this section, to which the above rules apply in every respect, should be entered a distribution, with reference to time, of the whole of the cases and persons contained in the 1st section, the totals of the two sections coinciding with each other.

48. The magistrate will always explain briefly, under the head of "remarks," the causes of delay in disposing of the cases of such of those as may have been in any of the above predicaments for a period exceeding three months.

C. O. 7th Oct. 1836, No. 206, para 3.
" 9th June 1837, No. 234, " 4. L. P.

Magistrate's Statement No. I.—*Monthly and Annual.*

PART VI.

Convictions.

Columns 1 *and* 2—2 *to* 3 *years.*

49. Persons who may have been sentenced to additional imprisonment above two years, in lieu of corporal punishment, should be entered in these columns.

Columns 3 *to* 5—*below* 2 *years.*
Column 7—*Security.*
Column 8—*Dismissed from Office.*
Column 9—*Flogged.*

50. The use of these columns being sufficiently indicated by their respective headings, no remarks appear to be called for. [See rule 139.]

Column 6.—*Fined.*

51. Prisoners sentenced to fine only, without any additional punishment, should be exhibited in this column. Those in whose cases the fine forms only a part of the punishment, are not intended to be inserted here.

Column 7.—*Security.*

[See rule 151.]

Column 10.—*Total of Convictions.*

52. The several totals comprised in this column should denote the number of persons convicted and punished by each grade of officers, and should correspond with the aggregates of columns 1 to 9 in detail; and the grand total of this column should correspond with column 11, part I.

Columns 11 *to* 14.—*Details of Acquittals.*

53. The headings of these columns being sufficiently indicative of their use, no directions are necessary.

Column 15.—*Total of Acquittals.*

54. The aggregates of columns 11 to 14 as respects each grade of officers, should correspond with the totals in column 15, the

Magistrate's Statement No. I.—*Monthly and Annual.*

grand total of which should coincide with the total of column 13, part I.

PART VII.

Columns 1 *to* 12.—*The number of persons fined and the amount of fines.*

55. The headings of these columns afford sufficient directions for filling them up. [See rule 138.]

Columns 13 *and* 14.—*Total of persons fined and the amount of fines.*

56. The aggregates of columns 1, 3, 5, 7, 9 and 11, and 2, 4, 6, 8, 10 and 12, should correspond, as regards each grade of officers, and also in total, with columns 13 and 14, respectively, of this part.

Column 15.—*Amount realized.*

57. In this column should be entered the amount of fines realized from the persons entered in column 13, and, supposing the whole amount imposed to be realized, its total should correspond with the total of column 14. [See rule 97.]

Columns 16 *and* 17.—*Fines imposed in addition to other punishment. Amount realized.*

58. All fines imposed as an additional punishment, together with such portion thereof as may have been realized during the period embraced in the statement, should be severally exhibited in these columns. [See rule 98.]

PART VIII.

Column 1.—*Under trial during and at the close of the month.*

59. Under this head, in the appropriate columns, should appear the number of males and females who have been brought before the magistrate during the month, and those whose cases were still pending at the close of the period, the total corresponding with the total of column 10, part I., which number, *minus* the number of persons who may have been repeated in consequence of being implicated in more than one case, will show the true number of individuals brought

up before the magistrate during the period, and those whose cases were pending at the close of the period. For example, suppose there were

	Under trial during the month.	Under trial at the close of the month.	
		In jail.	On bail.
Males,..	20	25	10
Females,..	10	4	1
Corresponding with columns 10, 18 and 19, part I,	30	29	11
Implicated in more than one offence, ...	3	4	2
The actual number of persons,..	27	25	9
Males,..	24	24	7
Females, ...	3	1	2
	27	25	9

Columns 2 *and* 3.—*Under trial at the close of the month.*

60. These columns will be filled up on a similar principle to that which is declared applicable to column 1. [See rule 99.]

PARTS IX. AND X.

[See rules 109 and 110.]

MAGISTRATE'S STATEMENT No. II.

MONTHLY AND ANNUAL.

PART I.

61. In this part should be entered, under the same rules as are prescribed for part I of statement No. 1, every description of crime not enumerated in the catalogue given in that part, for which no specific heading is provided, such, for example, as sodomy; assaults not attended with wounding or personal injury; inconsiderable affrays, *i. e.*, affrays not attended with violent breach of the peace; vagrancy; trespass, &c. &c. The letters of the alphabet in the usual consecutive order should be prefixed to these entries in the "index" column, and the totals of the several columns should be transferred to their corresponding columns in statement No. I. part I., heading 41. [See rules 125 and 143 to 150.]

Magistrate's Statement No. II.—*Monthly and Annual.*

PART II.

62. Attempts to commit crimes of whatsoever description, both those included under the first 40 headings of statement No. I., part I, and those entered in part I of this statement, (the aggregate of which is shown under heading 41,) should be exhibited in part 2, the former being distinguished by the same numbers as are severally borne by those headings: thus to "attempt at burglary with wounding," No. 17, should be prefixed ;—to "attempt at theft by administering dhatoora," No. 22, &c. &c. The totals of the columns in this part will, in like manner, be transferred to statement No. I., part I., heading 42. [See rules 149 and 150.]

PART III.*

Columns 1, 2 *and* 3.

63. These columns are intended to show the disposition of the prisoners on the date at which the statement closed, in the several proportions in which they slept within the walls of the jail, or in hospital, or on the roads on that date.

Column 4.

64. Prisoners sent by the magistrate to other districts, but intelligence of whose arrival at their place of destination may not have reached him at the period of the statement being closed, are to be entered in this column under heading 1 or 2, as the case may be.

Column 5.

65. This column will be the aggregate of columns 1 to 4, and will show the total number of prisoners in the actual charge of the magistrate, whether appertaining to his own or other zillahs.

Column 6.

66. The magistrate shall only account for, and include in his monthly statements, such casualties as may occur among prisoners (whether of his own or other districts) *under his actual custody or charge.* Prisoners in progress to other districts, for work on the roads, or for other reasons, shall be borne in the 4th column of this

C. O. No. 40, 20th March 1840, W. P. para. 3.
" 3rd April, 1840, L. P.

* Rule 114 cancels rules 63 to 70; and rule 115 substitutes rules 116 to 121 instead, and form of "diary of witnesses in attendance."

Magistrate's Statement No. II.—*Monthly and Annual.*

part of the statement for the district whence they are sent, until notification of their having reached their destination be received, when they will be struck off, and entered under the first heading (or prisoners of the district) in the 8th column of this part, and under the 2nd heading (or prisoners from other districts) in the proper column of the statement of the district to which they may be detached. A similar rule will apply to such prisoners returning from detached duty; and on this principle, deaths happening among convicts in transit, either going or returning from detached duty, will be accounted for in the returns of the districts they are leaving; and, in respect both to casualties in transit and after arrival, the magistrate to whose district the prisoners may be sent, on obtaining information thereof, will forward the warrant sent with the individuals so deceasing to the magistrate from whose district they came, endorsed with a certificate of death under his official seal and signature.

67. Whenever the mortality may exceed one per cent. per mensem, the magistrate will require the medical officer in charge of the jail to put on record, in the column of remarks, his explanation of the cause of the excess, adding his own comments thereon; and, in cases of very extraordinary mortality, he will make a special report on the subject, for transmission to the Nizamut Adawlut, through the session judge, who will append his own observations on the subject.

C. O. 24th Dec. 1835, No. 187, L. & W. P.
,, 15th July 1836, No. 201, W. P.
C. O. 9th June 1837, No. 234, L. P.

Column 7.

68. The principle of the rule contained in paragraph 66 will be applicable to the entry of prisoners in this column whenever the contingency of escape during transit may occur.

Column 8.

69. All convicts, whether belonging to the district to which the statement refers, or to other districts, who may have been sent from the former elsewhere, and notification of whose arrival at the place of destination may have been received, are to be included in this column, under the heading which may be applicable to their cases.

Column 9.

70. Convicts of all descriptions who may have been released, will be entered in this column, under the proper heading.

C. O. 6th March 1810, No. 66.

Magistrate's Statements Nos. II., *and* III.—*Monthly and Annual.*

PART IV.

71. In this part will be entered persons confined in default of furnishing the security required by Regulation VIII. 1818.

PART V.

72. The names of persons who have been confined for a period exceeding three years, on requisition of security, should be entered in this part;—the date of the original or first requisition, the date of the last renewal of the order, and the designation of the revising authority, being inserted in the appropriate columns. The total number of persons exhibited in this part, should correspond with the number in the 7th column of part IV. [See rule 136.]

PART VI.

73*. In this part are to be entered, with the particulars indicated by the headings of the several columns, persons who may be required to furnish security, or penal recognizances, to keep the peace on *conviction* of any specific offence, conformably to the provisions of Clause 1, Section II., Regulation IV. of 1825, and the interpretation of that enactment contained in Construction No. 831.

MAGISTRATE'S STATEMENT No. III.

MONTHLY AND ANNUAL.

PART I.

74. Herein will be entered all prisoners remaining in custody of the magistrate, whose cases were pending before the sessions court at the close of the period treated of; and the number shown in this statement will correspond with the session judge's statement No. I., part II., columns 2 and 3, heading 5.

C. O. 20th June 1839, No. 27, W. P.

PART II.

75. The detail of heading 1, part I, (" in former months,") should be shown in this part; and the number shown in this statement should correspond with the session judge's statement No. I, part II, columns 2 and 3, heading 5, of the preceding month.

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* The above was substituted for the original rule by C. O. (L. and W. P.) No. 149, 24th October 1843.

Magistrate's Statements Nos. IV., V. *and* VI.—*Monthly and Annual.*

MAGISTRATE'S STATEMENT No. IV.

MONTHLY AND ANNUAL.

76. This statement is meant to show the operation of Act IV. 1840; and magistrates should note, in the column of remarks, the number of suits which may have been pending more than three months, with an explanation of the cause of delay in their disposal.* [See rule 141.]

MAGISTRATE'S STATEMENT No V.

MONTHLY AND ANNUAL.

77. The object of this statement is to bring to the notice of the Court all regular criminal trials referred for their orders, the final sentence in which has not been recieved by the magistrate on the last day of the month. It should, therefore, embrace all crminal cases, regularly tried by the session judges, (or commissioners in special cases,) the proceedings in which have been submitted to the Court, and the sentence in which had not been received on that day, whether the same have been regularly referred by the session judge, (or commissioner,) or called for by the Court on inspection of the jail delivery statements, or on petition; as well as cases of either description, which may have been sent back for further evidence or explanation.

C. O. 15th Jan. 1836, No 190, L. P.
,, 15th July 1836, No. 201, W. P.

78. In order to enable the magistrate to keep up this record with punctuality and regularity, he will receive notice from the session judge of his having referred the case to the Superior Court.

MAGISTRATE'S STATEMENT No. VI.

MONTHLY AND ANNUAL.

79. This statement will exhibit the whole of the work disposed of by the magistrate and his subordinates, during the period to which it refers, as also the quantity of business pending before each individual at the close thereof. Columns 1 to 4 will be restricted to the exhibition of cases which appear in the magistrate's statement No. I., part I.; and the remaining columns will embrace all other cases.

* With reference to Act XXVII. of 1845, the Circular of the 2nd July 1847, L. and W. P., prescribed a modified form of this statement from the 1st January 1848.

Magistrate's Statements Nos. VI., VII. *and* VIII.—*Monthly and Annual.*

The aggregate of columns 1 and 3 will correspond with the total of column 1., part IV. of the magistrate's statement No. I.; and the aggregate of columns 2 and 4, with the total of column 17, part I., of the same statement. [See rule 111.]

MAGISTRATE'S REMARKS.

80. Under the head of "remarks," will be entered all observations and explanations, illustrative of the statements, which the magistrate may have occasion to make, or which may be required by the foregoing rules.

81. To facilitate reference, the numbers of the particular statement, part, heading, and column, respectively, to which the remarks may bear reference, should invariably be prefixed thereto. [See rules 105 and 106.]

MAGISTRATE'S STATEMENT No. VII.

ANNUAL.

82. The proportion of disposals by each officer should be given, and the totals of columns 2, 4 and 6, should correspond with the totals of columns 11, 12 and 13, of statement No. I., part I., and with the grand totals of columns 1 and 2, statement No. I., part IV., respectively.

MAGISTRATE'S STATEMENT No. VIII.

ANNUAL.

83. It has been supposed by some magistrates that this statement should comprise a record of all their operations of every kind for the year; and accordingly the computation of the average time has been made to include proceedings from other zillahs and other miscellaneous applications and petitions; but this is an error. Cases in which the magistrate acts in his judicial, as distinct from his ministerial capacity, should alone form the subject of this statement; and no cases should appear in it which do not enter into statement No. I., part I., with which it should correspond.

84. Cases in which the agency of the police has been employed should be kept distinct from those in which the accused may have been summoned to appear by the magistrate. [See rules 102 to 104, and 126 to 133.]

Magistrate's Statement, No. IX.—Monthly and Annual—General Rules.

MAGISTRATE'S STATEMENT No. IX.

MONTHLY AND ANNUAL.

85. The magistrate, or other officer in charge of the office of magistrate, will submit this statement, the nature of which is sufficiently indicated by the respective headings, to the session judge, at the close of each month and year, for transmission to the Nizamut Adawlut.

GENERAL RULES.

86. No alterations should on any account be made in any form directed by the Sudder Court to be used; and none but lithographed forms should be made use of, except with their express permission.

C. O. 7th July 1337, No. 235, L. P.

87. The monthly and half-yearly* statements will be submitted by magistrates and joint magistrates, in duplicates, within 10, and the annual, within 15 days after they become due, under rule 5, to the session judges, who will forward one copy to the Court.

C. O 24th Feb. 1837, L P. No. 224.
„ 9th June 1837, L. P. No. 234.

88. The Court have observed that it is not unfrequently urged by the magistrates, that the occupation of their time, in more important duties, prevents the submission of these statements within the prescribed period; and from the terms of the remarks on some of the statements, the preparation of them would appear to be often left to clerks possessing but an imperfect knowledge of the English language. To ensure greater accuracy and punctuality in their despatch, the Court suggest that, where it may be practicable, the duty of superintending them be entrusted to a covenanted assistant, under, of course, the control and responsibility of the magistrate himself; and the duty, they conceive, might be considerably lightened by anticipating arrangements instead of being postponed to the last hour.

C. O. 15th July 1836, No. 201, W. P.

* The half-yearly statements are now sent to the Government.

Supplementary Rules.

SUPPLEMENTARY RULES.

89*. The crime of a prisoner, whose case is pending from a former month, or year, is not to be entered in this column, which is to be exclusively devoted to the exhibition of the crimes ascertained to have been committed within the month, or year, to which the statement relates.

Statement No. I. Part I Column 2.

90. When the case of a party, charged with a lesser offence, lies over to a succeeding month, in which his crime assumes a graver aspect, (as in the case of a prisoner being charged with wounding in one month, and the wounded person dying, in consequence of his wound, in a subsequent month,) he should be entered in column 4 or 5 (as the case may be) under the original charge, and on conviction, or committal, the entry should be made under the heading designating the graver crime of which he may be found guilty, or on which he may be committed (*vide* rules 9 and 35.)

Statement No. I. Part I.

91. It appears to be the opinion of some officers that, as parties held to bail at the thanna are often unconditionally released by the magistrate on receipt of the thanna reports, without such parties being personally brought to trial by that officer, they should not be entered in column 1, part II, and consequently not in column 7, part I, the heading of which implies only persons "brought to trial." The Court, however, observe, that if it were practicable to frame the headings of statements and forms with a degree of precision fitted to meet every case, there would be no necessity for separate explanatory rules by which to construe the spirit and meaning of such headings; but it is found impracticable to arrive at such precision, and accordingly the number of persons brought to trial in any month is explained, by rule 15 to be identical with the number apprehended or attending on summons. Before bail (which includes moochulka) can be demanded by a thannadar, there must be some antecedent criminal charge, and although the parties released by him on bail may not, strictly speaking, be formally arraigned and tried by the magistrate, yet, when that officer directs their unconditional release, they are constructively tried and acquitted by him.

Statement No. I. Part I. Column 7.
,, II. ,, 1.
,, III. Heading 4.
Rules 15, 39, and 24.

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* The following Circular to the criminal authorities in the Lower and Western Provinces, was issued with the supplementary rules 89 to 105.

With the view of removing doubts, which appear to be entertained, on certain points connected with the preparation of the criminal statements by the magistrates, and of correcting certain errors discovered in the printed rules for the direction of magistrates and their subordinates, the supplementary clauses 89 to 105 are circulated for the information and guidance of the criminal authorities, who are directed to append the present to the rules before prescribed.

Supplementary Rules.

Rule 42 requires that persons of this class shall be comprised in the number entered in column 1, part II; and rule 39, that the aggregate of columns 1 and 2, of this part, shall correspond with the total of column 7, part I.

92. The large proportion which the number of persons bailed by the police officers bears to the integral number of all other descriptions of cases in some zillahs, and their subsequent unconditional release by the magistrate on inspection of the thanna reports without the attendance of the parties, indicate a precipitancy and want of sound discretion which demand the serious attention of the superior authorities. The police officer, who unnecessarily demands bail, from large masses of the population, fails in the due discharge of his duty, equally with the officer who, through neglect, suffers criminals to elude justice. The Court, therefore, after full consideration of the subject, see no reason to make any alteration in rules 15, 39 and 42.

93. When parties released on bail by the police officers, are unconditionally liberated by the magistrate without summoning them before him, they should be entered in column 13, part I, statement No. I, and under the heading, in part 4, statement No. I, of the officer who, after a consideration of the thannadar's report, may direct their unconditional release. If their cases are disposed of after attendance on the magistrate, they should be entered in column 11, 12, or 13, according to the nature of the order passed in the case of each person, and, in the column of remarks, the magistrate may specify the number of persons who have been liberated after trial, and of those who have been released without being summoned before the magistrate. [See rule 134.]

94. A person apprehended and brought to trial in the zillah, for a crime committed in a foreign territory, will be entered in part II, column 1 or 2, as the case may be, and consequently in column 7, part I.

Statement No. 1, Part 1 Col. 7, Part 2.

95. When the crime in all the cases is identical, the nominal number of persons will correspond with the aggregate of the nominal number of persons in each case.

Explanatory of rule 12.

96.* For "Column 14, Transferred," read "Column 16, Transferred."

Rules—Page 9.

97. All fines, realized in any given month, or year, will be entered in one or the other of these columns (according to the nature of the fine) in the statement for the month, or year, in which

Statement No. I. Part VII, Cols. 15 & 17.

* This paragraph is not applicable to the rules as printed in this volume, but to the printed rules in 8vo. circulated by the Western Court.

Supplementary Rules.

they were realized, and this without reference to the time when they were imposed.

Statement No. I. Part VII, Col. 16. 98. Fines imposed in lieu of labour, being a punishment in addition to imprisonment, should be entered in this column.

Explanatory of rule 59. Statement No. I, Part VIII. 99. In the 1st column of this part should appear the number of males and females, who have been brought before the magistrate during the month, inclusive of those whose cases were still pending at the close of the former statement, the total corresponding with the total of column 10, part 1, which number, *minus* a number corresponding with the number of times that one or several persons may have been entered more than once, in consequence of being implicated in more than one case, will show the true number of individuals brought up before the magistrate during the period. In like manner, those whose cases were pending at the close of the period, will appear in the 2nd and 3rd columns.

Rule 56. 100. For "Columns 1 to 11 and 2 to 12," read columns 1, 3, 5, 7, 9 and 11, and columns 2, 4, 6, 8, 10 and 12.

Rule 73. 101.* For the words "preferred against them," which occur in the 3rd line of rule 73, read "proved against them."

Statement No. VIII. Class 1st—Cases in which the agency of the police was employed. 102. The time passed in transit from the thanna to the magistrate's court, will be included in the time entered in the 3rd column of statement No. 8.

Class 2nd—Cases in which the agency of the police was not employed. 103. Cases received from other zillahs will appear in the 2nd class of statement No 8.

Classes 1st and 2nd. 104. Cases, if sent in by the military authorities with the aid of the police, will appear in the 1st class of statement No. 8; if without their aid, in the 2nd class, in which class also will appear cases arising in the jail and cases received from other zillahs.

C. O. 16th Sept. 1842. No. 118, W. P. 105. Magistrates will furnish a note, in the subjoined form, under the heading of remarks on statement No. 1, showing how many burglaries and thefts unattended with personal violence were left uninvestigated under the operation of Clause 2, Section 2, Regulation II. 1832.

"NOTE.—Out of the total number of entries in column 2 under headings 18, 23, 26 and 42 (say 152) 125 were uninvestigated

*This correction refers to the *original* paragraph, not to the paragraph which has been substituted for it by a subsequent circular.

Supplementary Rules.

with reference to Regulation II. 1832, viz. under heading 18, 55 cases; under heading 23, 58 cases; under heading 26, 11 cases; under heading 42, 1 case."

106.* Magistrates or officers in charge of magistracies will append a note in the column of remarks, distinguishing the number of cases brought before them as justices of the peace, and any which may be brought before them under Act 53, George III. Chapter 155, the number decided, and the number, if any, removed by writ of certiorari to Her Majesty's Supreme Court in Calcutta.

Statements Nos. I and II.

107.† With advertence to Clause 17, Section 19, Regulation XX. of 1817, the heading "unconditionally released," is hereby discontinued; and the fifth heading will, in future, be appropriated to the exhibition of persons whose cases may be pending investigation at the thanna, at the close of the period to which any given statement may refer.

Statement No. I. Part III.

108. It having been suggested to the Court that, in the absence of specific instructions, magistrates may fall into the error of entering under heading 2 of part III, persons who may have been released on bail and accounted for under heading 4 of this part, in a preceding statement, the Court are pleased to inform those officers, that a bailed prisoner once entered in statement No. I. part III. who will necessarily be transferred to the magistrate's statement No. I, part I, on receipt of the thannadar's report, is not again to appear under the 2nd heading of part III, merely because the magistrate requires his attendance through that officer. The rules which apply to prisoners bailed in the first instance by the magistrate himself, will be applicable to the prisoners bailed by the thannadar from the time they are brought on the magistrate's statement.

109.‡ In order that the Court may be kept informed of the application of Acts III. and V. of 1844, and that materials may be collected to serve as data for judging of the general effects of the enactments in question, at a future period, magistrates will add two tables (to be called parts IX. and X. respectively) to their statements No. I, at the place and in the form indicated by the following exemplar.§

110. It will be observed that the materials for the preparation of part IX, will be drawn from column 9, part VI, and of part X, from column 6, part VI, of which they will respectively be components.

Column 3 of part X will not be confined to the exhibition of the recovery of fines imposed during the period to which the statement

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* Rule 106 was circulated under date the 23rd February 1844.
† Rules 107 and 108 were circulated under date the 26th January 1844.
‡ Rules 109 and 110 were circulated under date the 27th March 1844.
§ See note at foot of page 276.

Supplementary Rules.

refers, but will show all sums realized, without reference to the time when the fines were imposed.

111.* Two additional columns, to be respectively numbered 11 and 12, will be introduced in statement No. 6, for the exhibition of cases prepared by the subordinate for the superior officer. In these columns, respect being had to the officer for whose decision the preliminary investigations were made, and opposite to the designation of the officer who conducted such investigation, will be entered the cases prepared by each subordinate.

Statement No. VI.

112.† With reference to rule 1 for the preparation of the magistrates' statements, the Court observe with satisfaction that the information thereby required to be submitted in part I, statement No. 1, is with a few exceptions correctly furnished. It is however desirable that there be no exception, and that the rule above quoted be made applicable to every officer exercising magisterial functions of whatever degree, whether magistrates, joint magistrates, assistants, principal sudder ameens, law officers, moonsiffs, or deputy collectors. Officers in charge of magistracies are requested to be specially careful in recording the dates of assumption and resignation of each incumbent with accuracy, as the correctness of the annual reports will be tested by this criterion.

113. It being desirable to exhibit in one view the changes in the agency, magistrates are directed to attach additional paper in the manner and at the place shown in the accompanying sample, when the space allotted may not suffice for furnishing the information required by rule 1.‡

114,§ Paragraphs 63 to 70, inclusive, and the jail return designated "statement No. II, part III, disposal of the prisoners and casualties," to which those rules refer, are hereby cancelled.

115. For the statement and rules cancelled by the preceding paragraph, the statement and rules 116 to 124, are substituted.

116. The following statement‖ will be neatly pasted on the old or cancelled statement.

117. The first section of this statement is intended to bring under the observation of the Court instances of undue detention of such witnesses, from their homes, as may have been dismissed prior to the expiry of the period reported on, as well as to furnish data for comparing the management of one magistracy with that of another. Accordingly, all witnesses who may have been in attendance during any part of the period reported on, but

Section 1.

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* Rule 111 was circulated under date the 28th June 1844.
† Rules 112 and 113 were circulated under date the 21st November 1844.
‡ See note at foot of page 276.
§ Sules 114 to 124 were circulated under date the 22nd January 1845.
‖ See note at foot of page 276.

Supplementary Rules.

who had obtained their discharge before its close, should be entered in the appropriate columns of this section.

118. The longest period any person may have been detained before obtaining his discharge, should be entered in column 15, but no witnesses should appear in this section who may be in attendance at the close of the period to which the statement refers.

Section 2. 119. This section will be appropriated to the exhibition of witnesses in attendance at the close of the period reported on. These individuals, it will be observed, are not to be included in the number entered in the first section.

Section 3. 120. The totals of the several columns of sections 1 and 2, will be exhibited in this section, and the grand total of column 14, will show the exact number of witnesses who may have been in attendance during any portion of the period embraced by the statement.

121. The reasons for the detention of all witnesses beyond eight days should be explained in the column of remarks.

122. In order to illustrate the instructions contained in the four preceding rules, and to prevent the possibility of misapprehension on the part of the clerk who may be charged with the preparing of the statement, the following facts are supposed, and the results noted in the statement given at rule 116.

One witness was in attendance from the 2nd to the 9th April, when he was discharged, consequently he was detained eight days from his home, and should, therefore, appear in the 9th column of section 1.

Two witnesses attended from the 22nd March to the 8th April, when they were discharged, they were consequently eighteen days from their home, and should be entered in the 11th column of section 1.

Four witnesses attended from the 8th to the end of April, without having obtained their discharge, and thus being detained thirteen days, should appear in the 12th column of section 2.

Three witnesses were detained from the 20th March to the end of April, without obtaining their discharge, and ought therefore to appear in column 13 of section 2.

123. At the close of each month the aggregates of columns 8 to 14 of the magistrate's diary, the form of, and the rules applying to which, are circulated under this date,* will be exhibited in columns 2 to 8, section 1, of the abstract (*vide* rule 116) required to be submitted to the Court, and the total number shown in the 15th column of the former statement will be distributed in columns 9 to 13 of the latter, and the number of persons in attendance on the last day of each

* See Circular Order No. 194, 22nd January 1845.

Supplementary Rules.

month will appear in the columns of section 2 which indicate the time they may respectively have been detained up to that date.

124. In preparing the annual returns nothing more will be necessary than to sum up the totals of columns 2 to 14 of the monthly returns, and enter them in the corresponding columns of the annual statemant, noting the longest period any person may have been detained in column 15; observing the same rule with regard to sections 2 and 3, as is prescribed for the 2nd and 3rd sections of the monthly abstract.

Fractions of days are accounted entire days. Section 3, being nothing more than the aggregate of the 1st and 2nd sections, needs no illustration beyond what is given in rule 120. (See rule 137.)

125.* In order to show the degree in which the responsibility of zemindars is enforced, the magistrates will be pleased in future to enter cases of zemindars and chowkeedars brought up for neglect of duty, under separate headings in statement No. 2, part I.

Statement No. II, part I.

126.† In the magistrate's statements No. VIII, for some districts, the totals of columns 5, 6, 7 and 12 do not show the average time occupied, but the aggregate of the particulars entered for the 12 months, while the statements of other districts are erroneous in regard to columns 8, 9, 13 and 14. With a view, therefore, to the correct preparation of the statements in question for the future, the Court request attention to the following rules:

Statement No. VIII.

127. Column 5 should exhibit the result of dividing the number in column 2 by that in column 1.

128. Column 6 should exhibit the result of dividing the number in column 3 by that in column 1.

129. Column 7 should show the totals of columns 5 and 6 added together.

130. Columns 8 and 13 should exhibit the longest period mentioned in the 12 months, *not the totals* of all the periods.

131. Columns 9 and 14 should exhibit the shortest period in the 12 months.

132. Column 12 should exhibit the result of column 11, divided by column 10.

133. The average time should not be given in years, or parts of years, but in days, omitting fractions.

134. The 93rd rule for the preparation of the magistrates' statements, provided for the insertion of a note to distinguish the persons released after trial, from those released without

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* Rule 125 was circulated on the 6th June 1845.

† Rules 126 to 134 were circulated on the 22nd August 1845.

Supplementary Rules.

being summoned before the magistrate. The Court direct that, in future, the number of persons released after trial be distinguished from those summoned by the magistrates, and those sent in by the police of their own authority. This may be done conveniently by adopting the following form, which comprehends the whole number of persons released :

Number of persons acquitted,.....		66
Summoned by the magistrate and his subordinates, ...		20
Sent in by the police,.....		30
Released on bail by the police, and not required to appear before the magistrate,.....		16

135.* The practice which has heretofore prevailed of entering Statement No. 1. "riots attended with murder, homicide, or violent breach of the peace," under heading 41 of the magistrate's criminal statement No. I, part I., being considered objectionable, the Court are pleased to direct that riots attended with murder, shall be entered under the heading (No. 3,) appropriated to the exhibition of the latter offence, a note being added in the column of remarks, to distinguish such cases from others of simple murder, and that riots attended with homicide or with violent breach of the peace, shall be aggregated with "affrays," to which they bear some affinity, under headings 31 and 32 of statement No. I, part I., agreeably to the formula given in the margin. This alteration shall take effect from and after the 1st January 1846.

31 Affrays and 32 Riots. { With homicide. / With violent breach of the peace.

136.† Whenever any individual, having been acquitted of a penal act on the ground of insanity, and detained in confinement in default of security, may be entered in part V. of statement No. II, magistrates will be pleased to append a note in the margin distinguishing him from others exhibited in the same part and statement.

137.‡ That the Court may be enabled to ascertain to whom delay in the examination of witnesses may be attributable, the magistrates will be pleased to make the following addition to statement No. II, part III., exhibiting the number of witnesses examined by each magisterial agent, and the periods during which they were detained in attendance by each. The responsibility of delay, and the duty of explaining its cause, will rest on the officer, whether magistrate, assistant, or other, before whom it may occur.

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* Rule 135 was circulated on the 31st Oct 1845.
† Rule 136 on the 10th Feb. 1846.
‡ Rule 137 on the 29th April 1846.

Suplementary Rules.

The subjoined form can be appended without difficulty to part III., statement No. II, by simply prolonging the columns, and filling up the first column in the manner shown in the following exemplar.

By Mr. —— Magte.															
,, ,, —— ,,															
,, ,, ——. ,,															
,, ,, —— ,,															
,, ,, —— ,,															

138.* With a view to indicate the heading in part VII. of statement No. I, under which fines of 10 rupees should be entered, the Court are pleased to enjoin substitution of the words "not exceeding" for the word "under," which occurs in the heading of columns 11 and 12.

139.† With a view to provide for the entry in part VI. of statement No. I, of persons sentenced to six months' imprisonment, the Court are pleased to enjoin the substitution of the words "not exceeding" for "less than," which occur in the heading of column 5, part VI., statement No. I.

140.‡ With reference to Act V. 1848, the following heading will be substituted for that now appearing in part VI. of statement No. II, from the 1st September next.—

"Prisoners in custody in default of security or personal recognisance to keep the peace under Section II., Regulation IV. 1825, and Act V. 1848."

141. It having been found that the present mode of entering suits under Act IV. 1840, transferred from the file of one officer to that of another, in Columns 4 and 9 of Statement No. IV, is likely to caus esuch suits to be

Statement No. IV.

* Rule 138 was circulated on the 11th Dec. 1846.
† Rule 139 on the 10th Sept. 1847.
‡ Rule 140 on he 11th August 1848.

Supplementary Rules.

reckoned twice over, the annexed form is substituted for that in use.
[L. and W. P. 1st June 1849, No. 25.]

FORM No. 4.

Abstract Statement of Summary Suits for forcible dispossession, under Act IV. 1840, decided and pending in the

1.	2.	3.	4.	5	6	7	8	9.	10	11	12	13	14.
Name and official designation of officers and the powers exercised by them.	Pending at the end of	Instituted in the	Received by transfer during the	Total	Transferred to other Courts	Remaining to be disposed of	Decided on their merits	Adjusted or withdrawn.	Dismissed on default	Total disposed of.	Pending at the end of	Pending beyond three months	Explanation of entries in Column 13.

Supplementary Rules.

142. The use of the subjoined form of Statement is prescribed in order to show the manner in which Act XVI. 1850, is applied, and will occupy the space between parts V and VI, No. II, by curtailing a portion of the space allotted to the former in the lithographed form. [W. P, 20th May 1850, and L. P. 13th May 1851, No. 58.]

Statement No. II, Part VII.

FORM.

Part VII, Operation of Act XVI. of 1850.

	1.	2	3.	4.	5.	6.	7.	8.	9.	10.	11.	12
	Exceeding Rupees.						Not exceeding Rupees.		Total.		Amount realized in the month.	Amount paid to injured parties in the month.
	500.		100.		10.		10.					
	Persons.	Amount.	Persons.	Amount.	Persons.	Amount.	Persons.	Amount.	Persons.	Amount.		
Magistrate, ...												
Joint Magistrate, ...												
Assistant, ...												
Deputy Magistrate, ...												
Principal Sudder Ameen,												
Sudder Ameen, ...												
Law Officer, ...												
Total, ...												

143. The attention of the Court has been drawn to the great want of regular and legal specification and classification of miscellaneous offences in the Magistrate's monthly criminal Statement No. II, Part

Statement No. II, Part I.

Supplementary Rules.

I. They therefore publish the subjoined* schedule of miscellaneous offences for general observance from 1st January 1852. [W. P. 11th April 1850, and L. P. 21st November 1851, No. 71.]

* *Schedule of Miscellaneous Offences.*

OFFENCES.

Nos. A.

1. Abkaree Laws, breach of
2. Abduction of married female.
3. „ of unmarried female.
4. Abortion, procuring
5. Abusive language.
6. Affray, simple
7. Aliens, breach of laws relating to
8. Assault, petty
9. Attempts to commit any of the offences detailed in this Statement.

B.

1. Bad livelihood.
2. Boats, building without licence, prohibited.
3. Breach of peace.
4. „ „ apprehended.
5. Breach of trust.
6. Bribery and corruption.

C.

1. Calumny.
2. Caste, wilfully offending against
3. Cheating.
4. Chowkeedaree cases under Regulation XXII. of 1816, and Act XV. of 1837.
5. Concealment of heinous offences, wilful
6. Confession of a crime, forcibly extorting
7. Conspiracy.
8. Contempt of Court.
9. Contract, breach of, in workmen or servant.
10. Custom laws, breach of

D.

1. Dacoits, belonging to a gang of
2. Destruction or injury of property or cattle, wanton
3. Dhurna.
4. Disobedience of orders in Government Servants.
5. Duress, illegal

E.

1. Embankments, cutting of
2. Embezzlement.
3. Escape from custody before trial.
4. „ Jail of a convict.
5. „ , Aiding and abetting the above two offences.
6. Evading process.
7. Export of Arms and Military Stores &c. under Act XVIII. of 1841, breach of laws relating to

OFFENCES.

Nos. E.

8. Exposing infant children.
9. Extortion.

F.

1. False and malicious complaint.
2. „ , information, knowingly giving to the Police.
3. Falsification or alteration of paper not amounting to forgery.
4. Ferry laws, breach of
5. Fraud.
6. Fraudulently appropriating, receiving, or concealing, property found, or lawaris or stray cattle.

G.

1. Gambling.
2. Gaming-house, keeping a
3. Gunpowder, keeping excess of

H.

1. Harbouring knowingly, bad characters.
2. Harbouring knowingly, proclaimed offenders.

I.

1. Illegally wearing the Government Military dress or Government badge.
2. Impressment of coolies, bearers, &c.
3. Incest.
4. Indigo, injuring by trespass or cattle or otherwise.

J.

1. Jail Discipline, breach of

L.

1. Lotteries, breach of laws relating to

M.

1. Maiming, mutilating, or wounding.
2. Maltreatment.
3. Mint laws, breach of

N.

1. Neglecting to support wife and children.
2. Neglect of duty in Chowkeedars.

OFFENCES.

Nos. N.

3. Neglect of duty in Police.
4. „ „ Zemindars.
5. Negligence, culpable, by which injury is caused to person or property.
6. Nuisances, offences connected with local
7. „ public or indecent exposure of person.

O.

1. Opium laws, breach of

P.

1. Poisonous or deleterious drugs or substances, administering
2. Post Office laws, breach of
3. Printing Presses, breach of laws relating to

R.

1. Recognizance, forfeiture of
2. Religion, offences against
3. Rescue, forcible.
4. Resistance of process.
5. Riot or tumultuous assemblage or disorderly conduct.
6. Rivers, resisting supervision of

S.

1. Salt laws, breach of
2. Siend katee, possessing of
3. Seizure of carriage, illegal
4. Slavery, breach of law, relating to
5. Stamp laws, breach of
6. State offences.
7. Suicide, assisting
8. „ attempt to commit

T.

1. Threatening language or action.
2. Thugs, belonging to a gang of
3. Trespass.

U.

1. Unnatural crimes.

W.

1. Weights and measures, using false
2. Witness, refusing to give or produce evidence.

Supplementary Rules.

144. The proper arrangement of this class of offences is a very important matter, to which magistrates must, in the preparation of Statement No. II, Part I, direct their personal attention, and class each offence under its appropriate heading. Likewise the sessions judges are required to subject the Statement in question to close examination, and to call upon the magistrate for a general and succinct description of the several cases which may be placed by him under one head, should they have reason to suppose that their classification is incorrect and vague.

145. The offences have been arranged and numbered alphabetically, and in their entries in the column of "description of crimes" in the Statement No. II, Part I. magistrates will be careful to use the terms here applied to each offence, citing marginally the letter and the number belonging to it.

146. Whenever a Magistrate may think it impossible to bring any particular offence under any one of the definitions now published, he will make use of such additional specification as he may think appropriate, reporting the same briefly to the session judge in sending up his monthly statements. The session judge will either note his approval in submitting them to the Nizamut Adawlut, or will direct the magistrate to alter the specification as he may think fit. But whenever a new definition, not included in the list now published, is made use of, it should be written in red ink.

147. The Schedule now published will probably be found imperfect; offences may be brought forward not sufficiently indicated in it. But the Court have no doubt that if magistrates and session judges will give their attention to define carefully any such exceptions, the list will ere long be perfected without difficulty. Session judges are requested in their annual reports to note what new specifications of crime it has been found necessary to adopt, and the Court propose to publish an amended schedule, should such be found necessary, after receiving the suggestions of the judges.

148. The entries, under No. 9 of letter A, and No. 8 of letter S, in the Schedule of offences referred to in Rule 142, *viz.* "attempts to commit any of the offences detailed in this statement." and "suicide, attempt to commit," having led to a difference of practice in the entry of attempts to commit offences not specified under the first 41 headings of Part I, Statement No. I, in Statement No. II, the Court direct that those entries be struck out of the number of the offences enumerated under the letters A. and S. of the schedule above referred to, and the following rules observed. [L. P. 2nd April, 1852, No. 82.]

Statement No. I, Part I.

Statement No. II, Parts I. and II.

149. When there has been an attempt to commit an offence not specified under the first 41 headings of Part I, Statement No. I, the substantive offence should be entered in Column I, Part I, of

Supplementary Rules.

Statement No. II, part II.

Statement No. II, and the remaining columns of that statement left blank, the attempt to commit being entered in Part II, Statement No. II, in the same manner as if the substantive offence had been one of those appearing in Part I, of Statement No. I, according to the following examplar.*

150. In such instances, the case of attempt will be entered under heading 43 of Statement No. I, but no entry will be made under heading 42 of the same Statement.

151. Rule 25 is modified as regards persons released on Moochulka taken under Act V. 1848, who are in future to be entered under the head "convicted" in Column 11, Part I, and included in Column 7, Part VI, of Statement No. I, [W. P., 10th, and L. P., 26th, May 1852, No. 83.]

Statement No. I. Column 11, Part I, and Column 7, Part VI.

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* No 2.

Part I, Detail of heading No 42, Statement No. I, Part I.

Index	Description of crimes.	2.	3.	4	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16	17.	18.	19
A. 6,	Affray, simple,.	1	...	...	...	1	1	...	...	1	...	...	1	...	...	...	...		.
B. 1,	Bad livelihood,	5	...	...	...	3	7	...	...	7	4	...	...	...	...	...	1	3	...
S. 7,	Suicide, ...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

Part II, Attempts.

23,	At theft, ...	5	...	..	...	3	3	...	...	3	...	...	1	...	...	...	2	1	1
34,	At Arson, ...	2	..	..	...	...	..	...	...	..	.	...	. .	...	...	...	..	...	
A. 6,	At affray simple,	3	.		...	3	4	...	...	4	1	...	2	...	...	...	1	...	1
S. 7,	At Suicide,.....	1	1	1	...	1	2	...	...	3	...	...	2	...	...	...	1	1	...
	Total, ...	11	1	1	...	7	9	...	...	10	1	...	5	...	...	...	4	2	2

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.*

Lower and Western Provinces, 6th January, 1842.

No. 99.

Certificates of execution of capital sentences to state the occurrence or non-occurrence of accidents, &c.

I AM directed to communicate, for your information and guidance, the following observations and rule.—

2. The Court observe, that in the execution of sentences of capital punishment in this country, accidents proceeding from the breaking of ropes made use of to hang criminals, are by no means of unfrequent occurrence.

3. In the generality of instances such contingency is without doubt the result of a want of management and due care and foresight, on the part of the officers charged with the execution of the sentence, to whom it cannot but be regarded as exceedingly discreditable. Its effect is equally injurious and to be deprecated, whether the accession of physical suffering caused thereby, or the disturbance of the solemn impression meant be conveyed, and of the operation of the spectacle as a moral example, be considered.

4. The Court are accordingly pleased to direct that in future each certification of the execution of a capital sentence shall include an announcement of no accident, error, or other misadventure having occurred; any occasion of the occurrence of such contingency, with a statement of its cause, of the party to whose fault it was owing, and of the steps taken in consequence, being duly notified in the return warrant.

TO THE SESSION JUDGES AND MAGISTRATES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces 7th, and Western Provinces, 28th January, 1842.

No. 100.

Instructions given, consequent on Act XXXI. 1841.

IN directing the attention of the officers concerned to the provisions of Act XXXI. 1841, as regards criminal appeals, the Court request they will observe—

† *First.*—That every order of an assistant to a magistrate not vested with special powers, of a principal sudder ameen, sudder ameen, or law officer, passed in a criminal trial, or proceeding, is appealable to the magistrate, or other officer exercising the powers of magistrate, whose decision on the appeal is final.

Secondly.—That every sentence, or order of a magistrate, joint magistrate, or assistant, vested with special powers, awarding a higher

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* This Circular was not inserted in its proper place among the Circulars of 1840.

† Modified by Circular Order No. 156, Vol. III.

punishment than that prescribed by Sections VIII. and IX., Regulation IX. 1793, for the Lower Provinces, Section IV., Regulation XVI. 1795, for Benares Province, and Sections VIII. and IX., Regulation VI. 1803, Ceded Provinces, is appealable to the sessions judge, whose decision is final.

* *Thirdly.*—That the law allows no appeal to the session judge from the sentence of a magistrate, joint magistrate, or assistant vested with special powers, awarding a punishment within the limitation prescribed by the above-mentioned enactments.

Fourthly.—That every order of a magistrate, joint magistrate, or assistant possessing special powers, passed in any judicial proceeding, other than a criminal trial, is appealable to the session judge, whose decision thereon is final.

TO THE SESSION JUDGES AND MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER AND WESTERN PROVINCES.

Western Provinces, 25th January, and Lower Provinces, 25th February, 1842.

No. 102.

Applicability of rule in paragraph 4 of Circular Order No. 53, 12th June, 1840, to cases of *assault*.

IT is hereby notified that the principle of the rule in paragraph 4, of Circular Order of the Nizamut Adawlut, No. 53, dated 12th June, 1840, has been held to apply to cases of *assault* by the Courts of Calcutta and Allahabad, who observe that, while certainly the character of the offence of the assault may frequently be more grave when committed with deliberation, and so far differ from the prevalent descriptions of affray arising from sudden quarrels, still it may safely be left to the discretion of the magistrate to commit or dispose of the case himself, with reference to the nature of the injury, and the apparent intent of the aggressor.

TO THE SEVERAL SESSION JUDGES AND MAGISTRATES IN THE LOWER AND WESTERN PROVINCES.

Western Provinces, 25th January, and Lower Provinces, 6th May, 1842.

No. 103.

Session Judges leaving their offices before the close

INSTANCES being of frequent occurrence in which, owing to the removal of session judges towards the end of the year, and the un-

* See No. 210, Vol. III.

of the year, to place on record their opinion of the proceedings of their subordinates.

acquaintance of their successors with the circumstances of the district, reports are sent up nearly blank; Government have signified a wish that the Court "will frame some rule by which such deficiency of information may not again occur from such a cause, and require session judges, on removal from the station, to place on record their sentiments and opinions on the administration of those subordinate to them, up to the period of their quitting the office of control." The Court, therefore, direct that, as laid down for the civil department by paragraph 9, of Circular Order, No. 28, dated, Lower Provinces 7th, and Western Provinces 21st December, 1838, the session judges will invariably, prior to delivering over charge of their offices on quitting a district, record a minute to be made over to their successors, containing the particulars referred to, and any other observations or results of experience, they may deem necessary or useful. The above rule is also applicable to magistrates under similar circumstances.

2.* The following extract of the orders of Government is, at the same time, appended relative to the responsibility of magistrates, as explained in the Circular issued by order of Government in the judicial department to commissioners, under date 19th, and published in the *Gazette* of 27th April, 1841, to which the particular attention of those officers is called. "His honor deems it right to take this opportunity of intimating to the magistrates generally, through the Court, that they will not be exonerated from the responsibility, which attaches to their office, by urging, in extenuation of mal-administration, that the criminal duties were intrusted to the joint magistrate. On this subject a Circular was addressed to commissioners on the 19th April, 1841, and the Court are requested to press the purport of the admonition it contains on the attention of all the judicial functionaries under their control."

TO THE SEVERAL MAGISTRATES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 28th January, and Western Provinces, 18th March, 1842.

No. 104.

Descriptive Roll to be forwarded with insane persons sent to any of the insane hospitals.

THE Court direct that magistrates who may send insane persons to any of the insane hospitals, or to the asylum of the presidency, will forward, with each patient, a descriptive roll, in the annexed form, with the column of remarks filled up by the surgeon of the

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* This paragraph was not circulated in the Lower Provinces.

district in those cases in which the patient has been attended by him.

Descriptive Roll of Insanes forwarded to the Insane Hospital of ——— from zillah ———.

Name of Patient	Names of near relatives or members of his family	Place of residence, including names of Village, Pergh and Zillah.	Cast, occupation or trade	Age	List of articles as clothes, &c., belonging to the patient and sent with him to the asylum.	Circumstances that led to the patient having been put under restraint and sent for confinement in the asylum.	Remarks. (A brief history of the case, the supposed cause of insanity, &c.)

Column 3.	*Column* 4.
Place of residence, profession, and age.	List of patient's property sent with him to asylum, as well of any sold to meet charges, with amount realized by such sale.

2. In the case of insane European British subjects sent under Circular Order, No. 85, dated 30th April, 1841, columns 3, 4, 5 and 6 may be compressed into two columns, as shown in the margin.

TO THE SESSION JUDGES, MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER AND WESTERN PPOVINCES.

Lower and Western Provinces, 18th March, 1842. No. 106.

Instructions with reference to Section V. Act XXXI. 1841.

With reference to the provision in Section V., Act XXXI. 1841, for the sessions and magisterial authorities being empowered to call for and examine the records of courts immediately subordinate to them, to satisfy themselves as to the proceedings of such courts being regular, but without power to *alter* any sentence or order of such courts, save on appeal regularly made under the Act, the Court notify that it is the duty of the authorities alluded to to report any cases, the circumstances of which, on revision, may suggest the propriety of interference, to the Nizamut Adawlut, in order that that Court may proceed respecting them as shall appear proper.

2. Such reports will always be accompanied by the record of the case to which the reference relates, and by an English letter commencing—"Under Section V., Act XXXI. 1841, and Circular

Order of the Nizamut Adawlut, dated 18th March, 1842, I herewith transmit the record of the case, noted in the margin, to be laid before the Nizamut Adawlut, with the following report."—Thereafter will follow a concise account of the irregularity, or other matter, on which the interference of the Court is sought. The magisterial authorities will send these reports, for submission to the Court, through the office of the session judge, to whom they may be subordinate.

3. In thus apprising the local officers of the duty devolving on them under the Act recited, the Court abstain from entering into any detail of the particular occasions on which such reports may require to be made, or attempting to define what descriptions of grave irregularity of procedure, undue severity of punishment, &c., may call for the adoption of the course. It is deemed sufficient to enjoin the officers in question, generally, to exercise a sound discretion in making references to the Court under this rule, so that neither important errors and omissions may escape correction, nor the time of the Court be needlessly engrossed by matters not demanding their interference.

4. Session judges, in referring trials under Section VI. of the Act above quoted, will always indicate the same in the commencement of their letter in form following: "I herewith transmit, to be laid before the Nizamut Adawlut, under Section VI., Act XXXI. 1841," &c. &c.

Note.—See No. 65, Vol. IV.

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 109.

Lower and Western Provinces, 20th June, 1842.

Prohibition of Government against native judges and law officers trading.

THE Court are pleased to re-publish for general information, the subjoined notification of Government, dated 29th December, 1835, interdicting the engagement of the native judges of all grades and of the law officers of the courts, in any trading speculations; and they request the judges will direct to that order the particular attention of all the officers concerned.

NOTIFICATION.

JUDICIAL AND REVENUE DEPARTMENT,

The 29th December, 1835.

The principal sudder ameens, sudder ameens, and moonsiffs, and the Mahomedan and Hindu law officers of the zillah and city courts,

and of the Sudder Dewanny Adawlut under this presidency, are hereby prohibited, under pain of dismissal from office, from being engaged in any trading speculations.

If any principal sudder ameen or other of the officers abovementioned shall be now engaged in trading speculations, or any such speculations shall devolve on him by inheritance, it shall be incumbent on him, within one month, to make known the circumstance to the zillah or city judge, or to the register of the Court of Sudder Dewanny Adawlut, and terminate his connection with such transactions at the earliest practicable period. Should he be unable to do so, within one year, he shall either resign his situation, or submit a report of the circumstances of the case to the judge or register, who will forward it to the Government, or Court of Sudder Dewanny Adawlut, as the confirmation of the officer may be vested in one or other of those authorities, with his own opinion as to the propriety of allowing the officer a further period for the purpose of bringing his transactions to a close. If any of the officers abovementioned shall fail to conform to the above rule, the same penalty shall attach to him as if he had engaged in trade subsequent to the publication of this order.

Candidates for any of the offices abovementioned shall certify in their applications that they are not engaged in any trading speculations; and in the event of their being appointed, and of its being subsequently discovered that they were so engaged at the time of making their application, they shall be liable to be dismissed from office.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 24th June, 1842.

No. 110.

References regarding chemical questions and operations to be made direct to the professor of chemistry.

PUBLIC officers are hereby informed, that a rule has been established, under directions of the Supreme Government, for all references regarding chemical questions and operations on account of Government being made direct to the professor of chemistry, Medical College, Fort William, who is privileged to issue and receive letters connected with his department free of postage.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE BENGAL DISTRICTS.

No. 112.

Lower Provinces, 24th June, 1842.

Correspondence with authorities of districts where Urdu is current, to be in that language.

IT appearing that proceedings in Bengalee are occasionally sent to authorities of districts where Urdu is the vernacular, I am directed by the Court to request that you will strictly conform to the 7th of the Rules circulated on the 5th July, 1839, which relates to correspondence with other districts.

TO THE SEVERAL SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

No. 113.

Lower and Western Provinces, 1st July, 1842.

The revision of security cases how affected by Act XXXI. 1841.

THE Court of Nizamut Adawlut publish the following instructions regarding the applicability of the provisions of Act XXXI. 1841, to the orders passed by magistrates on the cases of persons detained in confinement, in default of security for good conduct, agreeably to Regulation VIII. 1818.

2. Under Clause 2, Section VIII. of that Regulation, those cases, in which the demand for security does not exceed one year, do not need to be laid before session judges: such cases consequently are not in future to be revised by session judges, except on appeal by the parties.

3. But those cases, in which security for more than a year is demanded, must still be submitted, for confirmation, to the session judge, who is competent, under Clause 2, Section IX. of the enactment cited, to modify or annul the orders passed by the magistrate, should he see grounds for so doing.

TO THE SEVERAL CIVIL AND SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

No. 115.

Lower Provinces, 8th July, and Western Provinces, 30th September, 1842.

Reports regarding, and registers of, ministerial officers of the judges' courts dismissed for misconduct. See C. O. No. 125, *infra.*

I AM directed by the Court to request that whenever any of the ministerial officers attached to your court, receiving a salary of not less than 10 rupees a month, may be dismissed from the public service for misconduct, a report of the same be submitted, according to the annexed form, with a view to a register of their names being kept in this office, in conformity to orders recently received from the Honorable the Court of Directors.

2. An extract from the register will be forwarded to you annually, to enable you to guard against the admission of improper persons into the public offices.

FORM.*

Ministerial Officers of the Civil Court of Zillah———— dismissed from office for misconduct.

1.	2.	3.	4.	5.	6.	7.
Name of the Employee.	Name of his Father.	Office held by him.	Cause of Dismission.	Date of Dismission	Description of his person	Remarks.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 12th August, and Western Provinces, 26th September, 1842.

No. 116.

Rule of the Circular Order of the 25th February, 1820, extended to the nazirs of the foujdaree courts.

THE Court notify that, with reference to the Circular Order No. 38, of the 25th February, 1820,† which authorises the payment to the nazirs of the civil courts of a commission of one anna per rupee on the proceeds of unclaimed property of persons dying intestate, which may be sold by them, the Government have been pleased to sanction the extension of the rule to the nazirs of the foujdarree courts, who may be ordered to sell unclaimed property.‡

* This form includes the additional column prescribed by the subsequent Circular No. 125.

† Circular Order of the Sudder Dewanny Adawlut, Vol. I.

‡ The distinction between the two kinds of property is pointed out in the Circular Order of the Nizamut Adawlut, No. 3, of this vol.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 26th August, and Western Provinces, 4th November, 1842.

No. 117.

Police officers required to make use of the form of declaration prescribed by Act V. 1840.

THE Court are pleased to direct that it be explained to the darogahs and other police officers, that they are to make use of the form of declaration circulated on the 3rd April, 1840, in all cases wherein they are authorised by the Regulations to take a deposition on oath, by causing the deponent to repeat the words of the form before giving his deposition, and stating at the head of the written deposition that he was sworn according to the provisions of Act V. 1840.

2. Copies of the forms of declaration in Bengalee and Urdu are forwarded herewith, for the use of the thannas of every district.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 16th September, 1842.

No. 118.

A note to be inserted in magistrate's monthly statement, showing number of certain classes of offences not investigated under the operation of Reg. II. 1832.

WITH reference to the great disproportion for the most part observable in the magistrate's criminal statement, No. I, between the number of certain classes of crimes reported as "ascertained to have been committed," and the number of perpetrators apprehended and brought before the criminal courts for trial, a result believed to be referrible to the restrictive operation of Clause 2, Section II., Regulation II. 1832, prohibiting thannadars from apprehending persons, and entering on the inquisition of charges touching such offences (*viz.* simple burglary and theft) without the presentation of a petition to that effect, or without the issue of specific orders by the magistrate, the Court, in order to obtain means of information, which are at present wanting, direct that, from issue of this order, magistrates will invariably append at the side or foot of part I, of their monthly criminal statement, a note, after the form given hereunder, showing how many burglaries and thefts unattended with personal violence were left uninvestigated under the operation of the law above cited.

NOTE.*—Out of total number of entries in column 3, under headings 19, 20 and 23, (say 152) 125 were uninvestigated with reference to Regulation II. 1832, *viz.*, under heading 19, 55 cases, under heading 20, 19, under heading 23, 51, cases.

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* See paragraph 100 of Supplementary Rules for magistrate's statements for modified form of note.

TO THE SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 16th September, and Western Provinces, 15th October, 1842.

No. 119.

Construction 940 declared to be superseded.

THE Court, having reason to believe that some of the session judges continue to act upon Construction 940, in regard to appeals from the orders of the magistrate preferred by officers attached to the jails, are pleased to declare that the Construction in question must be held to be superseded by Act XXXI. 1841, the second section of which provides that *all* orders passed by a magistrate in judicial proceedings other than criminal trials, are appealable to the session judge.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 1st October, 1842.

No. 120.

Prisoners charged with heinous offences, not to be despatched from one district to another under single burkundauzes.

WITH reference to an instance of recent occurrence of a dacoit prisoner in progress from one district to another having killed the guard in charge of him, the Court, under instructions from Government, caution public officers against ever suffering a prisoner, charged with a heinous offence, who may be under transmission from one station to another, to proceed under such inadequate custody as the charge of a single burkundauze. The crime of which a prisoner under such despatch is accused should also be invariably written in the perwannah meant to accompany the despatch.

NOTE.—The duty of guarding convicts in transit is performed by the regular sepoy jail guard, and no prisoner is ever sent under single guard.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 21st October, and Western Provinces, 28th December, 1842.

No. 121.

Specimens of forms indented for on the lithographic press to be prepared on paper of the smallest size possible.

THE Court are pleased to direct that officers indenting on the Government lithographic press for forms of statements, &c. will forward to the superintendent, with their indents, a specimen of the smallest size of paper on which the forms may be executed without material inconvenience.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 122. *Lower and Western Provinces, 4th November,* 1842.

Rule regarding responsibility of heads of offices in the matter of the arrangement of records.

WITH the sanction of Government, it is notified for the information and guidance of all public officers at the head of establishments, containing records, that in future any officer who permits the records of his office to fall into disorder shall be held responsible to Government for the expenses incurred in their re-adjustment, and any functionary receiving charge of an office, the records of which may be in disorder, or so immethodically arranged as to prevent the ready production of papers when called for, who shall fail to make a timely report of their state, will be similarly held answerable for the outlay attending the assortment of the records.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 123. *Western Provinces, 16th December,* 1842.

Rules of practice fixed by the Nizamut Adawlut, N W. Provinces, with reference to Act XXXI. 1841, regarding the power of the sessions courts to interfere with certain orders of the magistrates.

VARIOUS references have from time to time been made to the Court of Nizamut Adawlut since the passing of Act XXXI. 1841, as to the competency of a judge of sessions, under the terms of that law, to direct the apprehension, with a view to commitment for trial, of a person, the charge against whom has, either with or without the arrest of the party, been investigated and dismissed by the magistrate, on the ground of the insufficiency of the proof against him, or from other cause, in cases which would, if proceeded with, be respectively within or beyond the magistrate's power to dispose of on trial by a final order.

2. In respect to cases of the former description, *viz.* those which the magistrate could decide of his own authority, the Court have communicated their opinion that the order of that officer for dismissal of the charge must be viewed as a legal acquittal; and could not, in any view, be considered tangible by the sessions court.

3. As regards the other sort of cases, *viz.* those beyond the magistrate's competency to try, the Court deemed it expedient temporarily to adopt (under protest, and holding themselves a different opinion) the view of the Nizamut Adawlut in Calcutta against the power of interference of the sessions court, pending the result of a reference on the subject which they had requested might be made to the Legislative Council; and instructions of a corresponding tenor were accordingly issued in reply to the references made.

4. The remarks of the Supreme Government having been recorded in the matter, the Court of Nizamut Adawlut, North-Western

Provinces, resolve to maintain their view of the power of interference of the sessions court, in the case stated in paragraph 3, and they intimate the same, as a rule of practice; further observing that session judges, in exercising this power, should use caution and discretion, and never subject to commitment and trial, without good grounds, a person in such case released by the magistrate.

NOTE.—See No. 175, Vol. II.

TO THE SEVERAL SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 29th December, 1842. No. 124.

Regarding the extent to which the provisions of Act IV. 1840, are applicable.

THE Courts circulated the following Resolution for the information and guidance of the criminal authorities.

Resolution of the Presidency Nizamut Adawlut under date the 21st October, 1842.

PRESENT.

R. H. RATTRAY,
C. TUCKER, and
J. F. M. REID, Esqrs., } *Judges.*

It having been brought to the notice of the Court that a session judge has overruled the proceedings of a magistrate in which he held the provisions of Act IV. 1840, to be applicable to a case involving disputes for the possession of land between a landlord and putneedar, on the ground that by the rule laid down in Construction No. 579, of the 17th December, 1830, such cases could not be brought under Regulation XV. of 1824, and because he conceived the zemindar entitled to the privileges of an auction purchaser, and therefore entitled to oust the putneedar,—they deem it proper to record the following Resolution explanatory of their construction of Act IV. of 1840, for the future guidance of the several session judges within their jurisdiction.

RESOLUTION.

With reference to the very general terms of Act IV. 1840, the Court are of opinion that its applicability cannot be confined within the narrow circle of Regulation XV. 1824, which has been repealed by the present law, by which it is evidently intended to empower the magistrates to inquire into disputes, relating to the possession of lands, of which, before the passing of that enactment, they were not competent to take cognizance.

TO THE SEVERAL CIVIL AND SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 30th December, 1842.
Western Provinces, 3rd March, 1843.

No. 125.

Registers of ministerial officers of the judges' courts, dismissed for misconduct.

To guard against the possibility of dismissed officers obtaining service in other districts by change of names or other means of disguise, the Court are pleased to direct the addition of a column, containing a descriptive roll of the dismissed officer, to the form prescribed by their Circular Order, No. 115, Lower Provinces, 8th July, Western Provinces, 30th September, last.

2. The extracts from the register of public servants dismissed for misconduct, which may be sent to you from this office, should be communicated to the several authorities of the district, so as to make the register of each department available to the heads of the other departments.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.*

Lower Provinces, 18th June, and
Western Provinces, 23rd July, 1841.

No. 126.

Construction that contradictory statements on a material point constitute perjury, and form of charge in such cases.

THE Court, having had occasion to take into consideration the state of the law of perjury as ruled by precedent† at page 282, of the 1st Volume of the Nizamut Adawlut Reports, are of opinion, that the mere fact of a witness having wilfully given two statements directly at variance with each other, on a point material to the issue of the case in which he gives his testimony, must be held to be perjury, and that the deponent, on conviction, is punishable accordingly. This opinion is in conformity with the exposition of the Mahomedan law given in the paragraph at the bottom of page 21 of the 2nd Volume of Constructions.

2. Under this construction of the law, the precedent cited will of course be held as superseded, and indictments for perjury in cases of the kind described will in future be drawn out after the following form:—"Charged with perjury in having, on the 25th April, 1840, and on the 5th May, 1840, given contradictory statements on affirmation before the magistrate and session judge of zillah ——— on a point material to the issue of the case."

NOTE.—For amended form See No. 10, Vol. IV.

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* This Circular was omitted in printing the Circulars of 1841.

† "To constitute the offence of perjury punishable by the Regulations, in the case of a witness giving different depositions before a magistrate and court of circuit, it is requisite that one of the two contradictory statements should be satisfactorily established."

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 3rd February, 1843.

No. 128.

Rescinds printed Construction No. 1177.

A RECENT Circular No. 225,* Lower Provinces, 16th September, Western Provinces, 17th October, 1842, having noticed to the judicial authorities, that Act XXX. 1841 is the only law under which contempt of court can now be punished, and "prevarication" not appearing to be correctly classable under the "obstructions to justice" rendered punishable by that enactment, it has accordingly been ruled by the Courts of Nizamut Adawlut at Calcutta and Allahabad, that Construction No. 1177 must be held to be rescinded.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 10th February, and Western Provinces, 4th April, 1843.

No. 129.

Rule regarding references to the chemical examiner.

I AM directed by the Court, under instructions from Government, to forward to you the accompanying copy of a letter, No. 45, of the 10th ultimo, from the chemical examiner, with a view to your adopting the suggestions of that officer in all practicable cases of the nature alluded to.

Copy of a letter from the Chemical Examiner to the Deputy Secretary to Government in the General Department, No. 45, *dated 10th January,* 1843.

I have the honor to inform you, that in the execution of my duty of chemical examiner to Government, I have several times been put to much inconvenience by no report or detail of cases being forwarded with substances sent for examination and supposed to contain poisonous matters. When the quantity of material requiring to be analysed is small, and no intimation or clue to its nature afforded by the symptoms it may have produced, some portion is necessarily expended in determining the class of poisonous agents to which it may belong, before any particular experiments can be undertaken with a view to establish its individual nature and composition, and in one or two cases the residue has been so minute as to prevent my being able to give a positive opinion on the subject. In all cases, it is a matter of

* Civil Circular Order Book Vol. III. p. 251.

interest and importance in a professional point of view to have a detail of every case of poisoning to illustrate the chemical examination, and afford such other evidence as may form a useful guide in future and doubtful cases of the same nature.

2. I have the honor therefore to request that all judges and magistrates who may have cases requiring chemical examination, be directed to furnish every detail that can be obtained, both from the civil surgeon and those persons who may depose to the facts of a case, for the information and guidance of the chemical examiner. By this means much valuable information may be obtained, which may ultimately lead to a knowledge of the poisonous vegetable substances employed by natives for criminal purposes, very few of which can at present be detected by chemical analysis.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 5th May, 1843.

No. 131.

Regarding operation of Act XXI. 1841.

THE Court circulate, for the information of the several criminal authorities, the following extract from a despatch from the Hon'ble the Court of Directors, to the Government of India, in the Legislative Department, under date the 14th December, 1842.

"We trust that care is taken to prevent this Act* from operating oppressively towards persons affected by it."

TO THE CIVIL AND SESSION JUDGES IN THE LOWER PROVINCES.

Lower Provinces, 7th April, and Western Provinces, 19th May, 1843.

No. 132.

Rule regarding applications for copies of papers.

THERE being reason to believe that specifications of additional documents are sometimes inserted in applications for copies of papers, after the presentation of the application and the passing of an order for granting copies of the papers originally applied for, the Court, with a view to prevent such a practice, direct that petitioners be in future required to mention in words the number of documents of which transcripts are required, and to insert the date of application immediately after the list of papers.

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* Act XXI. of 1841, for the better prevention of local nuisances not within the local limits of the Supreme Court.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 21st April, and Western Provinces, 26th May, 1843.

No. 133.

References to the Advocate General to be made through the Nizamut Adawlut.

PURSUANT to the orders of Government, the Court are pleased to direct that you will submit through them all references you may have to make for the opinion of the Advocate General on points of English law.

TO THE CIVIL AND SESSION JUDGES IN THE LOWER PROVINCES AND THE AUTHORITIES IN THE EXTRA REGULATION PROVINCES.

Lower Provinces, 27th April, 1843.

No. 134.

Subjects on which the local authorities are to correspond with the Government direct.

PURSUANT to instructions from the Government, the Court request that all communications, heretofore made to them on the following subjects, be, in future, addressed direct to the Judicial Secretary.

1st.—Application for leave of absence, whether on the part of the judges themselves, or on the part of the principal sudder ameens and sudder ameens.

2nd.—Appointment, promotion, and transfer of uncovenanted judges above the grade of moonsiff. Reports of vacancies in the offices of principal sudder ameen, sudder ameen, and moonsiff of the 1st grade, to be made direct, so that the Government may receive without delay all information necessary to make the required appointments. With regard to moonsiffs of the 1st grade, a report is also to be made to the Court, to enable them to make arrangements for filling up the vacant office.

3rd.—Erection and repair of public works and buildings.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 22nd April, 1843.

No. 135.

When of two orders passed in any case, one may be appealable to the sessions court and the other not, a separate pro-

THE Court, having had under consideration, in reference to Act XXXI. of 1841, that a magistrate's order in cases of trespass, or the like, may include the infliction of a fine of rupees 50, not appealable under Section II. of that enactment, as well as an award of possession of the thing in dispute, which is appealable to the superior court —and being desirous to correct the anomaly caused by one portion of

ceeding to be recorded for each.

an order being intangible and another portion of the same proceeding being capable of reversal by the appellate authority, direct that, in such cases, distinct and separate orders be passed—that in which the magistrate's decision is final being kept apart from any order appealable to the sessions court.

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 2nd May, 1843.

No. 136.

Directs registration prospectively of all security bonds executed by the sureties of treasurers, nazirs, and other ministerial officers attached to the judicial courts.

With reference to the provisions of Act I. of 1843,* which enact that, henceforward, all registered documents shall take precedence of others not so attested, the Court conceive that a due regard to the security of the interests of Government requires, that all security bonds executed by the sureties of treasurers, nazirs, and other ministerial officers, attached to the judicial courts, should be duly registered in conformity to the conditions of the enactment cited; and are accordingly pleased to direct, that all such, and other documents likewise of a similar character, by the annulment or repudiation of which, the interests of Government are liable to be injuriously affected, shall be subjected to registry; [that the civil and criminal authorities in the Lower Provinces shall satisfy themselves that the lands to which the registered security deeds relate have not been already conveyed away by any previously registered deeds,] and that such registration [and scrutiny] shall be deemed an indispensable preliminary to their acceptance as good and valid engagements.† The fees attendant on this process, must be defrayed by those, from whom security is demanded, and whose tenure of office is dependant on their compliance with such requisition.

2. As the validity of deeds, bonds and documents of every description, executed previously to the passing of this enactment, is not affected by its provisions, the registration of such need not be insisted on. These instructions are intended to have prospective effect only.

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* See the modified provisions contained in Act XIX. 1843.

† The words within brackets are not contained in the Western Court's circular.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES AND THE EXTRA REGULATION PROVINCES.

Lower Provinces, 19th May, 1843. No. 137.

Petitions of appeal, if presented within the period of appeal, to be received by the magistrates and sessions judges respectively, for transmission to the appellate court.

PURSUANT to the wishes of the Government, the Court direct that the magisterial authorities, and particularly those of out-stations, receive petitions of appeal against their sentences and orders, for transmission to the session judge, if presented within the period of appeal; and that the session judges pass orders on such petitions, notwithstanding the appellant has not entered appearance by himself or through an accredited mookhtear at the court.

The same rule shall be applicable to petitions of appeal from the sentences and orders of the session judges, presented to them for transmission to the Nizamut Adawlut.

NOTE.—See No. 26, Vol. IV.

TO THE MAGISTERIAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 16th June, 1843. No. 138.

Rules for abridging the proceedings of the magistrates and police officers in the investigation of criminal offences.

PURSUANT to the wishes of Government, for the abridgment of the proceedings of the magistrates and police officers in the investigation of criminal offences, which are recorded in the subjoined extracts, the Court, after communication with the superintendent of police, circulate the following rules and forms of roobukarees for the guidance of magistrates :—

1st.—In all cases investigated by the magistrate, no intermediate proceedings of length are to be admitted. In the event of its being necessary to require further investigation by the police, or the attendance of further evidence, it will be sufficient to pass an order to that effect in as many words, without entering into any detail of the facts of the case.

2nd.—In cases disposed of by the magistrate by conviction, a short record of the grounds of conviction and a clear statement of the charge, are to be entered in the final roobukaree, together with a list of the witnesses examined ; but it will not be necessary to preface the order with any lengthened details of the facts of the case (all of which may be gathered from the record,) or to make abstracts, as is sometimes done, of the reports and proceedings of the police officers in the magistrate's roobukaree of conviction.

3rd.—In cases of acquittal, it will be enough for the magistrate to record that, in his judgment, the charge has not been proved, and the

prisoner consequently acquitted. In heinous cases, an addition may be made to the effect that, in the event of other evidence being produced against the person discharged, proper orders will be passed in the matter.

4th.—In cases committed to the sessions, all that is necessary to be recorded is, the charge preferred, a list of the witnesses examined, and the charge on which the prisoner is committed by the magistrate.

2. Forms of final roobukarees, to be used by the magisterial authorities, in cases of conviction, acquittal, and commitment, are subjoined.

3. The following rules, framed by the superintendent of police, are to be communicated by magistrates to the police officers for their observance :—

1st.—In all cases cognizable by the police, the depositions of the informant or plaintiff, or of both, are to be immediately taken at length ; the police officers being careful, particularly to inquire from them what they saw themselves—what they learnt from others—who the persons were from whom they learnt it—the prosecutor's witnesses, and what evidence each witness is supposed to be capable of giving. In cases of dacoitee, highway-robbery, theft and burglary, the list of property lost must invariably accompany the plaintiff's deposition, and the above papers must be forwarded to the magistrate immediately on being received.

2nd.—The *soorut'hals* required in Sections 14 and 15, Regulation XX. 1817, or in cases of dacoitee describing the appearances presented, and the facts brought to light in a *primâ facie* inquiry, to be sent to the magistrate, in place of a report, the moment they are drawn up.

3rd.—Confessions of prisoners to be taken at length. No persons employed about the thannahs, or chowkeedars, doosadhs or chummars, or of such other descriptions, to be made subscribing witnesses to the same by the police, under penalty of forfeiture of situation. These must always be respectable men of the place ; and such, if possible, as can read and write ; and they should be required to question the prisoner themselves, whether he has confessed voluntarily to the facts stated.

4th.—The depositions of witnesses are not to be detailed in the papers sent to the magistrate ; and the summary of it to be given in the simplest form.

For example, in a case of highway-robbery with murder;—

Nuzzer Allee, Peer Bux and Govindram deposed to having witnessed the deed—

Doorga, Ewoz Jan and Ruttun recognize the property—

Sheolal and Gooroo Dass witnessed the search of prisoner's house—

Sujut Allee and Gungadeen saw prisoner running off with a drawn sword in his hand—

Janokia Dosadh chowkeedar arrested the prisoner and saw marks of blood on his clothes.

5th.—At the bottom of this summary, the darogah is to enter the names of those witnesses whom he examined, but who professed ignorance, or gave evidence so unimportant as not to require their being sent in.

6th.—In sending in the prisoners, at the close of an inquiry, the darogah to enter his grounds for so doing (without any recapitulation of evidence) in the column for remarks of the chullan No. 2, of Appendix to Regulation XX. of 1817.

7th.—No precise rules can be laid down for the returns to purwannahs; but any police officer, unnecessarily taking up the time of the magistrate with long reports, will be entered in the minor register, and such conduct, if persisted in, will cause dismissal.

8th.—The darogahs are informed that all excuses for delay in preparing and copying out voluminous reports being obviated by the above rules, any breach of the Regulations in the detention of arrested persons, or any slowness in the inquiry, will be severely dealt with. They are also to report concisely, but clearly, all important occurrences which may take place within their jurisdiction, considering that an important part of their duty.

9th.—In cases when the darogah may not think the case sufficiently proved to warrant the transmission of the accused parties to the magistrate, he is to send in the *substance* of the evidence of each witness, the statements of the plaintiff and defendants, the latter taken at length, and a clear statement (without recapitulating any evidence) of the grounds of his opinion for releasing the accused.

EXTRACTS REFERRED TO IN THE 1ST PARAGRAPH OF THIS CIRCULAR.

Extract from the Report of the Superintendent of Police, Lower Provinces, for the Second Six Months of 1840, *dated* 16*th November*, 1841.

Para. 812. I am aware that I am not expected, by the Honorable the Court of Directors, to do more in these reports than exhibit the results of the system as it exists; and I trust that I shall not be considered as going beyond this rule, in pointing out the inutility of employing the police in recording all their mofussil inquiries, in the voluminous manner required by Regulation XX. of 1817. This is really not the business of the police; and whilst it interferes much with the performance of their proper duties, it affords them every excuse for delay in sending in witnesses and offenders, and it places no check whatever on the compulsory extortion of confessions and evidence, or on the maltreatment of those from whom they may desire to procure declarations of any kind.

813. I believe the system of extorting evidence, &c., alluded to above, to be carried to a very great extent in many parts of the country; and it would be well to remove from the police all excuse for the delay which enables them to carry on this practice with impunity, whilst the abolition of the practice of the police recording any thing beyond the charge, the names of the witnesses, what they depose to, and the confessions of any persons, in a very concise manner, would place the magistrate's courts on a much better footing as being the judicial tribunals in the first instance, and render them not so dependent, as they are now, on the proceedings of their police, conducted without any proper control, constantly denied by the persons whose statements have been written down, and always suspected by the superior courts. If the whole detailed proceedings in a case of a dacoitee were to be placed before the Right Honorable the Governor of Bengal, I am sure that he would be surprised at the extraordinary quantity of written evidence judicially taken, and sent in by the police officers.

Extract from the Resolution of the Honorable the Deputy Governor of Bengal, dated 8th August, 1842, *on the Report of the Superintendent of Police, Lower Provinces, for the last Six Months of* 1840.

Paras. 812 and 813.

Para. 14. What Mr. Dampier here recommends was strongly advised by the police committee in paragraphs 70 to 74 of their printed Report, dated the 18th August, 1838, and the Supreme Government, in the Resolution* passed upon the Report, approved entirely of the committee's suggestions, apparently intending that they should be carried into effect. It would, however, appear that an alteration in the existing law would be a necessary preliminary. The subject being now again revived, the Deputy Governor will consult the Sudder Court thereon.

Extract from the Report of the Police Committee, dated the 18th August, 1838.

Para. 70. The first point is that the proceedings both of the magistrates and at the thannahs, require to be considerably abbreviated. In regard to the former, the records of a trial need contain only the examinations and the depositions of the parties, together with the final order of the magistrate, and the reasons for passing it. But according to practice, the record contains a great deal more. The final roobukaree, and often the intermediate proceedings, are swelled

* Para. 27.

by a recapitulation of the depositions of all parties examined, although the original depositions immediately precede it. This at best is a needless waste of time and labour, while it affords the amlah an opportunity to distort and misstate the evidence, in order to magnify to the parties their own influence and importance. In the judgment of the committee, the final roobukaree or proceeding should contain merely the order or sentence in the case, and the reasoning on which it is founded. Those who are acquainted with the length, to which, by the present practice, a final roobukaree in the most trifling cases is extended, will know how great a saving of ill-employed time and labour, and therefore how desirable an improvement, would be effected by the proposed abbreviation.

71. In regard to the thannah reports, it appears to us that they are susceptible of much simplification and improvement. The practice in this respect may be described as follows. On receiving intelligence of an occurrence, requiring local investigation, the darogah forthwith transmits to the magistrate a report of the information, containing generally an abstract or a copy (sometimes both) of the depositions of the prosecutor or informant, with notice of the reporter's intention to proceed himself, or to depute one of his subordinates, to the place of occurrence, for the purpose of local investigation. After the completion of the investigation, the darogah or other investigating officer forwards what is called a *soorut'hal*, or statement, with or without prisoners, witnesses, and prosecutors, as the case may be. This document is a voluminous compilation in the native language of all depositions taken on the spot, from such persons as the police officer chooses to examine,—the examinations of accused parties,—an account of the police officer's own proceedings during the investigation,—and a summary of his opinion on the charge preferred, as to the guilt or innocence of the accused, whom, if deemed guilty, he forwards for trial, and if innocent, releases on bail, or recognizance at his discretion. This bulky report is not unfrequently accompanied by the original depositions of the parties, besides the abstract. It is evident that no such long report was intended by the framers of Regulation XX. 1817, (vide Section 13, Clause 2,) but in the hands of an unskilled mohurir it always becomes what is above described.

72. The *soorut'hal*, even when faithful to facts, is of small use to the magistrate, by whom it is seldom looked into with much attention. The chief object of it is to point out to the officers, whose duty it is under the present system to take the depositions for subsequent production before the magistrate, the kind of information or evidence to be given by such of the persons, prisoners, or witnesses, sent in by the police officers, and in accordance with it the foujdarry mohurirs shape their examinations. But, in practice, the *soorut'hal* is not unfrequently drawn up by the police officer to suit his own private views, and represents the case, not as it has occurred, but as

he is desirous it should appear. The depositions and examinations are written studiously with a view to support the opinion which he desires should be adopted by the magistrate, and can never be relied on as a trustworthy representation of facts. It has occurred to one member of our committee to receive, at the same time, through an oversight, two *soorut'hals* of the same occurrence written by one officer. In one, the opinion given was, that the parties were guilty, and the evidence was studiously shaped to favor the conviction. In the other, the witnesses were made to give evidence exactly the reverse of that contained in the former, and the opinion recorded was, of course, in favor of the accused. These had been, as is supposed to be often the case, both prepared for transmission, with the intention of sending off the one or the other, according to the inducements held out by the parties concerned.

73. Though such signal detections can occur but rarely, yet every magistrate is well aware that little or no dependence is to be reposed on *soorut'hals*, and they are treated accordingly; while therefore they are of little or no use in promoting the elucidation of truth, they furnish excuses for delay and waste of time in completing investigations which is turned to account in fabricating false evidence, in tampering with prosecutors and witnesses, and in extorting money.

74. It appears to the committee that no inconvenience, and probably much good, would result from the discontinuance of these *soorut'hals*, and the adoption of a system like that in use in the Calcutta police. The darogah, or other police officer, should make summary inquiry, without recording depositions, and at the conclusion should merely send in the prosecutor, all witnesses, and prisoners, (if the case in his judgment require further investigation,) with a brief summary of the charge, and list of the persons sent in to the magistrate. If the case, in his opinion, be unsubstantiated, he should send in a similar list of the parties examined, stating shortly that on his view of the merits of the case, he has released the accused on bail, or on recognizance. In the latter case the prosecutor, if he deemed himself wronged, might of course apply to the magistrate for a trial of the charge. But the power of thus primarily releasing should, in the judgment of the committee, be restricted to misdemeanors, and not extend to felonies and larcenies.

Extract from the Resolution of the Hon'ble the President in Council, dated 15th June, 1839.

Para. 27. The remaining recommendations of the committee, in regard to the abbreviation of the proceedings both before the magistrate and at the thannahs, and the treatment of the suspected persons, should, the President in Council is of opinion, be approved. In regard to the latter especially, there can, he thinks, be no differ-

ence of opinion. The principle laid down in the 82nd paragraph of the committee's report is one which cannot too forcibly be impressed on every public officer; for there is none, the observance of which is of greater importance, nor is there any other country in which the principle in question is so systematically disregarded.

(True Extracts,)

(Signed) F. J. HALLIDAY,

Secy. to the Govt. of Bengal.

FORMS OF ROOBUKAREES REFERRED TO IN THE 1ST PARAGRAPH OF THIS CIRCULAR.

1. *Form of Proceeding of Conviction.*

Proceeding of the foujdarry court of zillah ——————— dated ———————

Present ——————— Magistrate.

A. B. Prosecutor.	*vrs.*	C. D. Defendant.

Charge.—Burglary in the house of the prosecutor and theft of property, of the value of 50 rupees.

The prisoner having been arraigned on the above charge, and pleaded not guilty, the following witnesses were examined for the prosecution.

E. F. G. H.	Who were present when the prisoner was apprehended in the act of committing the offence.
I. J. K. L.	To the fact of the property, found on the prisoner, belonging to the prosecutor.
M. N. O. P.	To the prisoner's character.

The undermentioned witnesses were examined for the defence.

Q. R. S. T.	To prove an alibi set up by the prisoner.
U. V. W. X.	To the prisoner's character.

The charge having been proved by the evidence of the witnesses for the prosecution, who were present when the prisoner was apprehended in the act of committing the crime with which he is charged,

and to the discovery, on the person of the prisoner, of property belonging to the prosecutor,—the value of such property not exceeding 50 rupees, it is hereby ordered that the prisoner be confined in the criminal jail of this district for a period of two years from this date, and be kept to hard labour in irons.

2. *Form of Proceeding of Acquittal.*

Proceeding of the foujdarry court of zillah ——————— dated ———————

Present ——————————————— Magistrate.

A. B. Prosecutor.	*vrs.*	C. B. Defendant.

Charge.—Burglary in the house of the prosecutor and theft of property, of the value of 50 rupees.

E. F. Witnesses examined.

Whereas the charge against the prisoner has not been proved by the evidence adduced on the part of the prosecutor, it is hereby ordered that the prisoner be released.

3. *Form of Proceeding of Commitment to the Sessions Court.*

Proceeding of the foujdarry court of zillah ——————— dated ———————

Present ——————————————— Magistrate.

A. B. Plaintiff.	*vrs.*	C. D. Defendant.

Charge.—Murder of ————

The following witnesses were examined on the part of the prosecutor ; *viz.*

E. F., G. H. } Eye witnesses to the murder.

I. J., K. L. { Witnesses to the fact of a previous enmity between the prisoner and the deceased.

M. N., O. P. { Witnesses to the confession of the prisoner before the darogah.

The following witnesses were examined for the defence.

Q. R. } To an alibi pleaded by the prisoner.
S. T. }

With reference to the evidence for the prosecution, it is hereby ordered that the prisoner be committed to take his trial in the sessions court of the district, charged with the murder of ————————, that the prosecutor and witnesses be bound over to attend in the sessions court, and the prisoner be questioned as to any evidence he may wish to have summoned on his trial.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 7th July, 1843. No. 141.

Prohibition of general warrants.

WITH advertence to a case which has recently come under their consideration, the Court request the magisterial authorities to conform strictly to the rules laid down in Regulation IX. 1807, regarding the issue of warrants, and to be careful that none are issued for the apprehension of persons not expressly named therein. The sessions courts are at the same time requested to notice any instances in which the rule may be inadvertently violated.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 25th and Western Provinces, 30th August, 1843. No. 142.

It rests with the surgeon to decide whether wounded persons, sent to him for examination, shall be placed in the hospital for treatment or not.

To remove doubts which may exist, the Court are pleased to direct, that when a wounded individual is sent by the magistrate for examination as to the nature and extent of his or her wounds, it shall rest with the surgeon to decide whether such person shall be placed in the hospital for treatment, or not; and that the surgeon's order on the point shall be conclusive.

TO THE SEVERAL MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 16th August, 1843.

No. 144.

Prescribing the adoption of two general and six subordinate registry books, with a registry of decided cases, to facilitate reference to the records of cases.

THE Courts of Nizamut Adawlut for the Lower and North-Western Provinces, have had before them the returns to their Circulars, dated for the Lower Provinces, 18th June, 1841, and for the Western Provinces, 23rd July, 1841. The magistrates in the Lower and North-Western Provinces having in general signified their unqualified approval of the forms of registers as circulated, and having in some instances already introduced them, and the emendations which have been suggested by some functionaries being mostly of a trifling and unimportant nature, the Presidency and Western Courts direct that the registers be brought into use throughout all the districts within their respective jurisdictions.

2. The remarks which were circulated with the forms of registers, are here repeated for the information and guidance of magistrates.

3. The objects sought for, are facility of reference to the records of cases, and ready information (as far as facts and circumstances may have been ascertained) in regard to persons charged with offences, who have eluded the pursuit of justice.

4. For these purposes, two general register books and six books of subordinate entry, should be kept up in every magistrate's office.

1st.—A general register of all applications preferred direct to the magistrate.

2nd.—A general register of all reports received from the police darogahs.

The subordinate books are:

1st.—A book of heinous offences.

2nd.—A book of petty offences.

3rd.—A book of appeals preferred from subordinate courts.

4th.—A book of references or proceedings received from other districts.

5th.—A book of cases preferred under Act IV. of 1840.

6th.—A book containing all miscellaneous matters.

5. All criminal cases should be entered in the first instance in either of the general registry books, and then transferred to one of the subordinate ones for trial and disposal, excepting of course the cases referred to the subordinate tribunals. When cases are finally decided, they should be sent to the record-keeper, who should keep a general register, in which he should enter all cases thus received, giving the number of the case and nature of it, the names of the parties, the crime, the thannah, the month and year of the occurrence, and an abstract of the final order, with a column in which he should note in what part of the office he has placed the papers. As long as his plan is followed no difficulty can occur in tracing out a case. If,

for instance, a magistrate wishes to know what has become of a petition presented by A, on the 1st March, 1840, he refers first of all to the general register of applications, and he there finds it was either tried by himself as a petty offence and entered in his book of petty offences decided on such a day, and sent to the record office, or else he will find that it was referred to the principal sudder ameen and disposed of by that officer. In like manner heinous offences will be traced from the general report book to the heinous offence book, and from thence to the record office or a subordinate court.

6. As regards Furarees, or persons who have eluded the pursuit of justice, the forms prescribed by Regulation III. 1812, if properly kept up, contain almost all the information that is requisite, the addition of a single column (which the magistrates are required to effect) will make them quite complete. The additional column should state the number of the case, the year in which it was preferred, and in what part of the record office the record is to be found.

7. These several forms, *viz.* two general registry books, six books of pending business, one of business disposed of, and the registers prescribed by Regulation III. 1812, amended as above directed, if properly kept up, would give every information. They are simple and easy of comprehension, and involve no additional trouble and expense.

A.

General Register of all Applications preferred direct to the Magistrate of Zillah ———, *commencing on the* 1*st January* 184 *and ending* 31*st December* 184 .

No. of this Register.	Name of the Applicant.	Date.	Substance of Charge.	Order.
1, ...	Ram Doss, ..	1st January,...	Assault,...	Referred to the Sudder Ameen.
2, ...	Sheik Coochil,	Ditto, ...	Wounding with a Sword,	Deposition taken, and sent to Heinous Offence Book keeper.
3, ...	Imam Deen, ..	2nd January,..	Stopping up a Road, ...	Referred to Daroga[h] for Report and sent to Miscellaneous Case Book keeper.
4, ...	Ramdhun, ...	Ditto, ...	Assault,...	Referred to Principal Sudder Ameen.

B.

General Register of all Reports received from the Police Darogahs of Zillah ————, *commencing the* 1*st January* 184 *and ending* ————.

No. of this Register.	Name of Thannah.	Date of Receipt.	Substance of Report.	Order.
1, ...	Kutwah, ...	1st January, ...	Reporting a case of Murder in Village of Dhuguram, ...	Sent to "Heinous Offence" Book keeper. Darogah ordered to submit result of inquiries without delay.
2, ...	Baupore, ...	Ditto, ...	Reporting all well, ...	Filed in the Office.
3, ...	Bilsah, ...	Ditto, ...	Sending a case of Cattle Stealing, ...	Referred to Joint Magistrate.
4, ...	Hooghly, ...	Ditto, ...	Reporting a Burglary in the House of Ramdhun, ...	Ordered to inquire into the case. Report sent to "Heinous Offence" Book-keeper.

C.

RECORD KEEPER'S REGISTER.

1.	2.	3.	4.	5.	6	7.	8.
No. of Cases.	Nature of Case, that is Heinous, Petty or under what head.	Names of Parties.	The Crime or Offence charged.	Thannah.	Month and Year.	Final Order.	Record Keeper's Remarks.
							Placed in Rack No. 1. Bustah No. 4.

No. 1.—*Book of Heinous Offences prescribed by Circular Order, 12th April,* 1811.

No. of this Register.	Name of Prosecutor.	Name of Party accused.	Abstract of Charge.	Date of filing.	Parties on Bail or in Jail.	Abstract of Order passed.	Final Order.
1, ...	Sheik Coochil,	Ryamooddeen, Mynooddeen,..	Wounding with a sword, ..	1st January,	... ...	Warrant issued.	
2, ...	Rammohun, ...	... ...	Murder of Coochil, ...	1st January,	... ...	Directing Inquiry.	
3, ...	Ramdhun, ...	... ...	Burglary,...	1st January,	... ...	Do. to Report.	

No. 2.—*Petty Offence Book prescribed by Circular Order, 12th April,* 1811.

No. of Register.	Name of Prosecutor.	Names of Parties accused.	Substance of Charge.	Date.	Abstract of Orders passed.	Final Order
1, ...	Ulee Buksh, ...	Hurmohun Dwarkanath,	Assault, ...	2nd January,...	Summons.	
2, ...	Shishim, ...	Ramshaee Toolsee, ...	Assault, ...	3rd January,...	Summons.	

No. 3.—*Book of Appeals.*

No.	Name of Appellant	Date of filing Appeal.	From whose Orders Appeal preferred.	Abstract of Orders passed.	Final Order.

No. 4.—Book of Reference from other Districts.

No.	Name of District.	Date of Receipt of Reference.	Substance of Reference.	Substance of Orders passed.	Final Order passed.

No. 5.—Book of Cases preferred under Act IV. of 1840.

No.	Name of Prosecutor.	Name of Defendant.	Date of filing Petition or of Report.	Substance of Charge.	Substance of Order.	Final Order.

No. 6.—Miscellaneous Matters.

No.	Names of Parties.	Date of filing.	Substance of Matter.	Substance of Order.	Final Order.

Register of Persons charged with, or suspected of the Commission of specific Crimes of a Heinous Nature, who may have eluded the pursuit of Justice.

Name and Caste of the person accused or suspected.	Name of the Father.	Supposed Age.	Description of his Person.	Supposed usual place of Residence.	Amount of Reward offered for his apprehension.	Date of apprehension, surrender or ascertained death.	No. of Case, the year in which it was preferred, and in what part of Record Office to be found.

TO THE MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 27th October, 1843.

No. 146.

Additional instructions regarding references to the Chemical Examiner.

It appearing that many magistrates, under a misconception of the object of the Circular Order No. 110, of 24th June, 1842, have referred all cases involving chemical examination to the chemical examiner to Government, instead of availing themselves of the aid of medical officers of their stations, I am desired by the Court to request, that such references be in future limited to cases of urgent necessity, in which the local medical officer cannot afford the required information, and to doubtful cases of poisoning, &c., regarding which there may be need of information for directing the researches of the police.

2. The magistrates are also requested not to call upon the chemical examiner to make affidavits before the chief magistrate of Calcutta, regarding any matter referred for examination, as such affidavits are not legal evidence.

TO THE SESSION JUDGES IN THE LOWER PROVINCES AND THE COMMISSIONERS IN THE EXTRA-REGULATION PROVINCES.

Lower Provinces, 24th November, 1843.

No. 147.

Particulars to be noted in letters which accompany trials referred or called for.

The Court desire that in future a note be entered in the margins of the letters which accompany trials referred to the Nizamut Adawlut, and those called for by them, stating distinctly whether the defendants are in jail, or at large on bail, and, in the latter case, from what date.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Court, 25th September, 1843.

No. 148.

Alteration in para. 73 of Rules for the preparation of criminal statements.

I am directed to bring to your notice an error which has been detected in the 73rd paragraph of the rules for the preparation of criminal statements according to the new forms, and to request that, for the words "security to keep the peace," which appear in the first line, you will substitute in the copy furnished for the use of your office, "*penal recognizances to keep the peace.*"

2. A corresponding alteration should at the same time be made in the Urdu version of "The Rules."

Note.—See Circular Order following.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 149.

Lower and Western Provinces, 24th October, 1843.

Circulating a paragraph in substitution of para. 73 of Rules for the preparation of criminal statements.

I AM directed to inform you that the instructions contained in my Circular Letter dated 25th ultimo, [No. 148,] appearing to the Court calculated to induce a greater prolixity of detail, than is either desirable or necessary to the efficient supervision of the criminal administration, have been cancelled. You will be pleased accordingly to expunge from the copy of the rules furnished for the use of your office, both the 73rd paragraph, as it originally stood, and the emendation subsequently* directed, and to substitute the following paragraph.

PART VI.

"73. In this part are to be entered with the particulars indicated by the headings of the several columns, persons who may be required to furnish security or penal recognizances, to keep the peace on *conviction* of any specific offence, conformably to the provisions of Clause 1, Section 2, Regulation IV. of 1825, and the interpretation of that enactment contained in Construction No. 831."

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* See preceding Circular Order, No. 148.

TO THE CIVIL AND SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

No. 150.

Lower Provinces, 17th November, and Western Provinces, 30th December, 1843.

Instructions for rendering official communications intelligible in themselves without reference to other documents.

Foreign Depart.

THE subjoined Circular of the Supreme Government is circulated for general observance :—

To ———————————————

SIR,

The Governor General in Council directs that hereafter all servants of the Government, who may have occasion to refer in their letters to any numbered paragraphs of letters received, will in the margin state briefly the substance of the several paragraphs to which they so refer.

2. Every letter should, as far as possible, be made intelligible in itself, without reference to any other document for the elucidation of its meaning, and great inconvenience to the public service, besides

that of delay, may occasionally arise from the letter containing the paragraphs referred to, not being within the reach of the person to whom the letter making such reference is addressed.

TO THE MAGISTERIAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 24th November, 1843.
Western Provinces, 27th January, 1844.

No. 151.

Prescribing registers of unclaimed property and property of interests.

THE Courts of Nizamut Adawlut, for the Lower and North-Western Provinces, having had under their consideration the means best adapted as checks against the misappropriation of "unclaimed property" and the "property of intestates" coming under the control of the Foujdarry Courts, are pleased to prescribe the adoption of the forms annexed in all future cases of the kind :—

FORM No. 1.

ZILLAH ———— FOUJDARRY ADAWLUT.

Register of Unclaimed Property disposable under Clause 16, *Section* 16, *Regulation XX. of* 1817.

1.	2	3.	4	5.	6	7.	8	9.	10.	11	12.
Names of Thannahs.	Description of Unclaimed Property.	Date of arrival at the Thannah.	Date of sale (if sold) in the Mofussil.	Date of arrival at the Sudder Station.	Date of sale at the Sudder Station.	Price realized by the sale of the Property.	Signature of the Nazir.	Date on which the price realized, was paid into Treasury.	Receipt and Signature of the Treasurer.	Signature of the Magistrate or other Officer.	Remarks.
											If the property has been made over to any claimant who has appeared, it is to be stated in the column of Remarks.
									Total Amount, ... 0 0 0 Realized during the Month, .. 0 0 0		

x 2

FORM No. 2.

ZILLAH ———— FOUJDARRY ADAWLUT.

Register of Lawaris Property disposable under Section 7, Regulation V. of 1799.

1.	2.	3	4.	5	6.	7	8	9
Names of Thannahs.	Names of Individuals deceased	Description of Property	Date of arrival at the Thannah.	Date of Arrival at the Sudder Station	Date of despatch of Property to the Civil Court	Signature of the Nazir.	Date of Receipt given by the Civil Authority	Remarks

TO THE MAGISTERIAL AUTHORITIES IN THE LOWER PROVINCES AND EXTRA REGULATION PROVINCES.

Lower Provinces, 24th November, 1843.
Western Provinces, 27th January, 1844.

No. 152.

Bodies sent to surgeons for examination, to be accompanied with information as to cause of death.

THE Court are pleased to direct that magistrates, in sending bodies to the civil surgeons, for examination, furnish them with all available information regarding the alleged cause of death.

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 19th January, 1844.

No. 154.

Ministerial officers not to be employed on lower salaries than those fixed by the Government,

AN instance having come to the knowledge of the Government of native ministerial officers being entertained on lower salaries than those fixed by the Government for the situations they held, and the difference carried to the public credit, the Court, in pursuance of instructions received by them, intimate to the different officers under

their control that the honorable the Deputy Governor considers this practice to be extremely objectionable, and desires that it may not, under any circumstances, be repeated.

TO THE OFFICERS IN CHARGE OF JAILS IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 27th January, 1844.

No. 155.

Promulgates correspondence with Government on the subject of imposing fetters on native soldiers and camp followers, made over to the civil authorities, to undergo sentences of imprisonment adjudged by courts martial.

THE Court of Nizamut Adawlut promulgate, for the information and guidance of all officers in charge of jails, in the North-Western Provinces, copies of the correspondence, particularized in the margin, which has recently passed with Government, on the subject of imposing the restraint of fetters on native soldiers and camp followers, who may be made over to the civil authorities to undergo sentences of imprisonment, adjudged against them by courts martial.

Offg. Register to Secretary to Govt., N. W. P., No. 1256, dated 14th Sept., 1843.

From Secy. to Govt., N. W. P., No. 302, dated 23rd instant, with annexures.

From the Officiating Register of the Western Court to the Secretary to Government, North-Western Provinces, No. 1256, *dated* 14*th September,* 1843.

References have been occasionally made by magistrates, to whose charge native soldiers and camp followers, sentenced by courts martial to imprisonment "with labour," have been committed, requesting the instructions of the Court in regard to their competency under the terms of the sentence to impose the additional restraint of fetters; and the instructions issued by the Court, on these applications, have been hitherto wont to be regulated by the particular circumstances of each case, and the representations of the magistrate in respect of it: ordinarily, the imposition of "irons" forms a part of the sentence passed by the criminal authorities on persons, whose offences have rendered them liable to imprisonment "with labour," and it appears to the Court advisable, that some uniform principle should guide courts martial in recording their sentences, and that some corresponding rule of practice, with a view to the enforcement of that principle, should be promulgated for general observance by the military authorities.

2. In order to effectuate this object, it will only be necessary, the Court presume, that the pleasure of Government should be communicated to the Military Department, accompanied by a request, that if no objection, legal or other, exist, orders should be issued, fitted to secure the specification of "labour in irons" or the reverse, in every sentence of imprisonment passed by a court martial, whenever it may

be intended that the prisoner shall undergo his punishment in any of the provincial jails under the control of this Court.

3. A discretion is of course vested in all magistrates to subject any prisoner, guilty of riotous conduct, or of an infringement of the rules prescribed for the management of jails, to the restraint of fetters, whatever his sentence, and by what court soever awarded, whenever such a step may appear indispensable to the maintenance of discipline and order, or the safe custody of the prisoner; but the object of the present address is to procure the promulgation of a rule which shall impose upon courts martial the duty of so framing their penal awards, as that no doubt of their intention regarding the imposition of irons shall remain, and which shall relieve the magistrates and other authorities in charge of jails from the responsibility, on the one hand, of inflicting upon prisoners committed to their custody, a degradation, which may not form part of the recorded sentence, and from their not unnatural repugnance, on the other, to afford to such convicts a facility of effecting their escape, by sending them to labour on the roads, without the ordinary restraint of fetters.

From the Secretary to Government, North-Western Provinces, to the Officiating Register of the Western Court, No. 302, *dated the* 23*rd January*, 1844.

In reply to your letter, No. 1256 of 1843, dated 14th September, I am directed by the honorable the Lieutenant Governor to forward, for the information of the Court, the accompanying copy of a despatch from the officiating Secretary to the Government of India, Military Department, dated 15th ultimo, deeming it unnecessary that any legislative enactment should be passed for ensuring the distinct expression of the intentions of courts martial in passing sentences on prisoners who have to undergo their punishment in any of the provincial jails under the control of the Sudder Court in these provinces.

From the Officiating Secretary to the Government of India in the Military Department, to the Secretary to Government, North-Western Provinces, No. 572, *dated the* 15*th December*, 1843.

Your despatch, No. 4775, of the 20th October last, relative to the distinct expression of the intentions of military courts martial, in passing sentences on prisoners who have to undergo their punishment in any of the provincial jails under the control of the Allahabad Court, having been referred to his excellency the Commander-in-Chief, I am directed, in annexing for the information of the honorable the Lieutenant Governor, copy of a letter No. 273, of the 4th instant, from the Adjutant General of the Army, to my address, which has been received in reply, to observe, that the honorable the President in Council deems it unnecessary that any legislative enact-

ment should be passed on the subject, it appearing that the imposition of fetters on convicts is left to magistrates who exercise their own discretion in ordering their use, under the circumstances referred to.

From the Adjutant General of the Army, to the Officiating Secretary to the Government of India in the Military Department, No. 273, dated the 4th December, 1843.

I am directed by the Commander-in-Chief to acknowledge the receipt of your letter, No. 52, of the 3rd ultimo, with enclosures, relative to the expediency, or otherwise, of courts martial distinctly expressing in their sentences whether prisoners adjudged to suffer imprisonment with labour, are, or are not, to be subjected to the restraint of fetters, and to convey to you his excellency's opinion on the point in question.

Sentences of imprisonment with labour, passed by native courts martial, are passed either in conformity with the Regulations of Government, on trials for criminal offences, or under Act No. XXIII. of 1839, on trials for military offences. In criminal cases, the sentence directs the imposition of fetters, whenever the Regulations authorise its being done, and not otherwise; and, thus, the same law which guides the courts of session, or the Nizamut Adawlut, guides courts martial also.

In military cases, courts martial are empowered by the Act No. XXIII. of 1839, to award "imprisonment with or without hard labour," but as no authority is therein given, to direct that the prisoner be subjected to labour "in irons," or "on the roads," a court martial cannot legally, the Commander-in-Chief thinks, introduce the words into their sentence. By the authority conveyed in a circular from the Court of Nizamut Adawlut in Calcutta, No. 122, of the 11th March, 1813, the imposition of fetters on convicts would, his excellency remarks, seem to be left to the discretion of the magistrate.

If it be deemed advisable to confer on courts martial the discretionary power of awarding imprisonment, with or without hard labour in irons, or otherwise, such power must, his excellency conceives, be specially conferred by an Act of Government.

TO THE SESSION JUDGES AND MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 9th February, 1844.

No. 156.

THE Courts of Nizamut Adawlut for the Lower and Western Provinces have ruled that every order of an assistant to a magistrate not vested with special powers, of a principal sudder ameen, sudder ameen, or law officer, passed in a criminal trial, or proceeding, award-

Para. 1, Circular Order, No. 100, modified. Appeals from orders of

officers vested with powers of an assistant awarding a punishment beyond the limitation in Section 8, Regulation IX. of 1793, lie to the session judge.

ing a higher punishment than that prescribed by Section 8, Regulation IX. of 1793, is appealable to the session judge.

2. The circular order No. 100, dated Lower Provinces, 7th, and Western Provinces, 28th January, 1842, is to be corrected accordingly.

NOTE.—See No. 159, next page.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 20th February, 1844.

No. 157.

Orders passed by magistrates under Act XXI. of 1841, are appealable to session judges only.

IT has been ruled by the Courts of Nizamut Adawlut, for the Lower and Western Provinces, that all orders passed by magistrates for the removal of obstructions and nuisances on thoroughfares, or for other conservancy purposes, under the provisions of Act XXI. of 1841, are appealable to the session judges only,—who are accordingly required to take cognizance of all such matters, when brought before them.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 1st March, and Western Provinces, 12th April, 1844.

No. 158.

Rule for calculating the period within which an appeal should be lodged or any official act done.

TO secure uniformity of practice regarding the mode of calculating the period within which an appeal should be lodged or any official act done, the Court desire it to be understood, that when the period consists of days or weeks, the full number of days or weeks mentioned in the order should be allowed, exclusive of the day on which the order is passed, and that when a month or a year is mentioned, the month or the year should be reckoned according to the English calendar, that is to say, the month should not be invariably reckoned at thirty days, and the year should comprise twelve English calendar months.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 2nd March, 1844. No. 159.

Supersedes paragraph 1 of Circular Order Nizamut Adawlut, No. 100, dated 28th January, 1842, and declares all orders passed by assistants to magistrates and others under the provisions of Section 20, Regulation IX. of 1807, and Clause 3, Section 3, Regulation III. of 1821, to be appealable to the sessions judge.

THE Court, after consultation with the Nizamut Adawlut in Calcutta, have ruled, in supersession of paragraph 1, Circular Order, Nizamut Adawlut No. 100, dated (Western Provinces,) 28th January, 1842, that every order of an assistant to a magistrate not vested with special powers, of a principal sudder ameen, sudder ameen, or law officer, passed in a criminal trial or proceeding, adjudging a penalty of fine and imprisonment, agreeably to the provisions of Section 20, Regulation IX. of 1807, and Section 3, Clause 3, Regulation III. of 1821, which penalty exceeds the limitations enacted in Section 8, Regulation VI. of 1803, is appealable to the sessions judge.

2. In like manner, whenever in cases of petty theft, the extended powers conferred by Section 20, Regulation IX. of 1807, and Clause 3, Section 3, Regulation III. of 1821, upon assistants to magistrates not vested with special powers, principal sudder ameens and law officers, may be called into exercise by those functionaries, respectively, the orders of each, and all in such cases, have been held to be appealable to the sessions judge.

NOTE.—See No. 156, p. 365 of this Vol.

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 19*th April,* 1844. No. 160.

Prohibition against giving copies of letters or resolutions of the Court. The prohibition not applicable to sentences of the Nizamut Adawlut.

THE Court request that, whenever applications are made to you for copies of any letters from, or resolutions passed by them, you will refer the applicants to the Court, instead of granting the copies asked for.

2. This rule is not to be considered to apply to the sentences of the Nizamut Adawlut in criminal trials.

TO THE OFFICERS IN CHARGE OF JAILS IN THE NORTH-WESTERN PROVINCES, INCLUDING SAUGOR AND KUMAON.

Western Provinces, 19*th April,* 1844. No. 161.

Promulgates, for the information and guidance of officers in

WITH reference to the Circular Orders of the Nizamut Adawlut, No. 669, dated 16th May, and published in the *Government Gazette* of the 6th June last, the Court publish, for the information and guidance of all officers in charge of jails, in the North-Western Pro-

charge of jails, instructions for providing means of daily ablution to the prisoners.

vinces, extract (paragraphs 2, 3 and 10,) from the orders of Government, dated 23rd ultimo, pointing out the measures which should be adopted, in all practicable cases, for providing means of daily ablution to the prisoners in their custody.

Extract (paragraphs 2, 3 and 10,) from the orders of Government, dated 23rd March, 1844, No. 1085.

Para. 2. As regards the general question, it appears that there is no plan so advantageous as that of a good sized tank in the immediate neighbourhood of the jail, but outside the walls. The practice of bathing within the walls, in the well from which water is drawn for drinking, is open to objection, on two accounts; part of the water runs back into the well, thus impairing its quality for drinking purposes, while the remainder is apt, unless a very good system of drains is established, to render that part of the interior of the jail wet and dirty.

Para. 3. It is thought that in most places a tank, 120 feet square, and 10 feet deep, would be large enough for the purpose, and would retain water throughout the year; such a tank would be dug by 100 prisoners in from two to three months without further expense to Government. In most jails there are convicts for life, whom it is not advisable to employ at a distance from their place of confinement, and whose labour might well be made available for such a work.

Para. 10. In conclusion, I am desired to observe that wherever difficulties still remain for procuring the means of ablution for the prisoners in the vicinity of the jail, it is almost always practicable to allow them these means during the interval of labour, which it is understood that they generally enjoy in the middle of the day.

TO THE MAGISTRATES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 23rd April, 1844.

No. 162.

Calls attention to Circular Order addressed under this date to the civil judges, prescribing rules for the transmission of the records of

THE Court call the attention of magistrates in the North-Western Provinces, to a Circular Order addressed, under this date, to the civil judges, regarding the practice to be in future pursued by moonsiffs and others, in transmitting records of monthly decisions to the sudder station, and request, that the police darogahs subject to their control, may be furnished with the requisite instructions for giving effect to the directions therein contained.

Circular to the Civil Judges in the North-Western Provinces, dated 23rd April, 1844.

monthly decisions by the subordinate judicial officers to the sudder station.

The Court, having had under consideration, returns to their Circular Order, No. 492, dated 10th March, 1843, and published in the Agra *Government Gazette* of 28th idem, calling for information regarding the practice, observed by the several subordinate courts in transmitting the records of monthly decisions to the sudder station, are pleased, with the sanction of Government, to issue the following instructions for general observance.

2. By Clause 8, Section 10, Regulation XX. of 1817, police darogahs are required to forward by the thanna dawk or by their burkundauzes, "as occasions may offer," papers sent to them by the subordinate civil judges for that purpose; on the other hand, the transmission of the records of monthly decisions is directed to be periodically made, and cannot, if the rules prescribed by Circular Order, Sudder Dewanny Adawlut, No. 49, dated 20th September, 1839, are to be enforced, be allowed to depend on the occasional opportunity which a police darogah may think fit, either to improve, or, on the other hand, to leave unheeded; independently of this, the Court observe the increased bulk of the records of the subordinate tribunals, arising from the enlargement of their powers, and the consequent accession of judicial business before them, opposes a serious obstacle to the employment of the thanna dawk, as a means of conveying them to the sudder station.

3. The Court, however, adverting to the occurrence which gave occasion for the Circular Order of this Court, dated 10th March, 1843, are not disposed to dispense with the attendance of a police burkundauze, which is authorised by law and affords some security for the safe arrival of papers in transit; and they are pleased accordingly, with the permission of Government, to direct that the subordinate judicial officers forward the records of monthly decisions by a specified date, to the nearest thanna, for transmission to the sudder station, taking a receipt from the darogah, or in his absence, from the head officer present at the thanna. It shall be the duty of the police darogah to despatch the papers in question, without delay, to the sudder station, under charge of a burkundauze, indenting on the magistrate for the expense incurred in their conveyance, and submitting to the judge a duplicate of the account for his information. The items of expense thus incurred, will be charged in the monthly contingent bills of the magistrate's office.

4. The judges are requested to determine the period, within which each moonsiff shall be required to have his records of monthly decisions delivered to the police darogah, with due advertence to the necessity of enforcing the provisions of Circular Order, Sudder Dewanny Adawlut, No. 49, dated 20th September 1839, and with reference to the distance of each receiving thanna from the sudder station.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 163. *Lower and Western Provinces, 6th May,* 1844.

In supersession of Construction, No. 816, interference by magistrates in the election, recognition, or removal of chowdhrees, prohibited.

By the Construction of the Nizamut Adawlut, No. 816, dated the 23rd August, 1833, magistrates were declared competent to "remove the chowdhrees of the several trades and professions." The Court having re-considered the subject of this Construction, and the principle which it involves, are persuaded that it is based on an incorrect view of the chowdhree's position, and of the relation in which he stands towards the members of the trade or profession on the one hand and the Government on the other.

2. The chowdhree is the head of the profession, selected and appointed by its members in the exercise of their free choice, with which the Government have no power to interfere, and with them rests the option of dispensing with his services, whenever he may have forfeited their confidence, by abusing the influence incident to his position, or acting detrimentally to their interests.

3. The Court are pleased therefore, with the sanction of Government, to declare Construction No. 816 superseded, and to prohibit any interference on the part of the magisterial authorities in the election, recognition, or removal of chowdhrees, of whatever trade or profession.

TO THE SEVERAL SESSIONS JUDGES IN THE NORTH-WESTERN PROVINCES AND TO THE COMMISSIONER OF KUMAON.

No. 164. *Western Provinces, 14th May,* 1844.

Attention of the session judges directed to requirement of Circular Order, No. 110, dated 29th June, 1832.

Circular Order, No. 110, dated 29th June, 1832, having fallen into partial disuse, and the inconvenience, which it was designed to remedy, having been thus revived, the Court are pleased to direct the attention of the session judges to the said order, and to request, that in forwarding the proceedings in criminal trials, &c., called for by the Court, they will invariably annex thereto, an extract from the sessions statements, containing whatever information was conveyed in them, relative to the case called for.

TO THE SEVERAL SESSIONS JUDGES AND MAGISTRATES IN THE NORTH-WESTERN PROVINCES, INCLUDING THE SAUGOR AND NERBUDDA TERRITORIES, AND THE COMMISSIONER AND SENIOR ASSISTANTS OF KUMAON.

Western Provinces, 14th May, 1844. No. 165.

Notifying that Section 2, Act XXXI. of 1841, confers upon every convicted offender the privilege of demanding a re-hearing of his case, and that it is incumbent on the appellate authorities to examine the proceedings of the lower courts, in every case, whether it be a criminal trial or judicial proceeding, other than a criminal trial.

WITH reference to the Circular Order of this Court, No. 842, dated 19th June, 1843, the Court notify, for the guidance of the sessions judges, in the North-Western Provinces, and for general information, that Section 2, Act XXXI. of 1841, has been held, by the concurrent opinion of the majority of the two Courts of Nizamut Adawlut, to confer upon every convicted offender the privilege of demanding a re-hearing of his case, or, in other words, a second trial; it has been, on the same principle, determined, that the mere reception of a petition cannot be considered equivalent to the "appeal permitted" by the Act, but that it is incumbent on the appellate authorities to call for, and examine the proceedings of the lower courts in every case, whether it be a "criminal trial," or a "judicial proceeding other than a criminal trial," from the sentence or final order in which an appeal may be preferred to the superior courts.

2. The Court accordingly inform the appellate authorities, enumerated in Section 2, Act XXXI. of 1841, that they are incompetent to reject petitions of appeal of what kind soever, presented to them, within the prescribed time, without a revision of the proceedings held in the lower court, and that it is incumbent on them, however manifest the legality or the propriety of the decision passed by the court of first instance may be, to call for, and examine the proceedings of the said court, in every instance of an appeal being instituted before them.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES, INCLUDING SAUGOR AND KUMAON.

Western Provinces, 17th May, 1844. No. 166.

Resolution regulating the future practice of the Nizamut Adawlut, N.W. P., in receiving petitions of appeal from sentences in criminal cases of lower courts.

THE Court publish, for general information, a resolution agreed upon, under date the 17th instant, regulating the future practice of the Nizamut Adawlut for the North-Western Provinces, in the matter of receiving petitions of appeal from sentences passed in criminal trials by the lower courts, and request, that the sessions judges and magisterial authorities will take measures to make the purport thereof known to all whom it may concern.

2. The rule of practice resolved upon, will come into operation on the 1st July next ensuing.

Resolution.

At a Court of Nizamut Adawlut held at Agra on Friday, the 17th of May, 1844—

PRESENT:

B. Taylor,
G. P. Thompson and
J. Davidson,
} Esqrs. } Judges.

Read a letter from the register of the Nizamut Adawlut in Calcutta, No. 294, dated 23rd February last, relative to the practice pursued by that Court in the reception of petitions of criminal appeal, under Act XXXI. of 1841, from third parties, calling themselves relatives of the prisoners, without authority from the real appellants.

Resolved, that the said practice, which is found to have been observed by this Court from its first institution to the present time, is beyond the requirements of law, and in practice objectionable, and that it be forthwith discontinued.

Resolved, further, that henceforth no petition of criminal appeal, even though preferred within the limit of time prescribed by Section 2, Act XXXI. of 1841, shall be considered admissible, unless presented by the appellant in person, or by a duly authorised representative; and that all petitions presented in opposition to this rule, shall be rejected, as of course, and put into the record office, without any order being recorded thereupon.

Ordered, that this resolution be adopted as a rule of practice in the reception of petitions of criminal appeal in this Court, and be brought into operation on the 1st July next ensuing.

Ordered, further, that the said resolution be published in the Agra *Government Gazette* for general information.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 11th June, 1844.

No. 169.

Attention called to Circular Order, No. 231, 21st Oct. 1842, regarding indents for lithographic forms.

THE Court having ascertained, that the injunction contained in the Circular Order, No. 231, dated 21st October, 1842, has been frequently disregarded, and having, in consequence, been troubled with numerous references from the superintendent of the Government lithographic press, are pleased to recall the attention of the civil and criminal authorities to the same, and to direct that when indenting for statements, &c., they will invariably forward with their indents "a specimen of the smallest size of paper, on which the forms may be executed without material inconvenience."

TO THE SESSION JUDGES IN THE LOWER PROVINCES.

Lower Provinces, 5th July, and Western Provinces, 22nd August, 1844.

No. 171.

Attention of session judges called to Act XXIV. of 1843, regarding form of trial of dacoity cases.

THE Court observing that it is still the practice in some districts to try dacoitee cases with the assistance of a law officer, request the attention of the session judges to the provisions of Sections 2 and 3, Act XXIV. of 1843.

TO THE SESSION JUDGES AND COMMISSIONERS IN THE LOWER PROVINCES.

Lower Provinces, 19th July, 1844.

No. 172.

Dates of sentences appealed from and of presentation of petitions, to be noted by session judges in their letters.

THE Court request that you will enter, in the margins of the letters with which you may transmit petitions of appeal from your own sentences, the dates of the sentences appealed from and of presentation of the petition.

NOTE.—See No. 26, Vol. IV.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 26th July, 1844.

No. 173.

Officers vested with the full powers of magistrates, under Act XV. of 1843, are competent to make commitments to the sessions.

To remove doubts which may exist on the point, the Court are pleased to notify, for general information, that officers invested with the full powers of magistrate, are competent to make commitments to the sessions in cases referred to them which may be beyond their competency to decide.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower and Western Provinces, 26th July, 1844.

No. 174.

Remarks on the meaning and application of Act III. of 1844.

DOUBTS having been expressed, regarding the meaning and application of certain parts of Act III. of 1844, it is notified, for the information and guidance of the criminal authorities, that, by the

concurrent opinion of the Courts of Nizamut Adawlut for the Lower and Western Provinces, it has been determined that "magistrates," "joint magistrates," and "persons lawfully exercising the power of a magistrate," are alone competent to award corporal punishment, relatively to the definition of the term "magistrate," given in Section 4, Act II. of 1839.

2. By Section 1 of the Act, magistrates are declared *competent*, in certain cases, to inflict corporal punishment on adult offenders, and are at liberty, therefore, whenever they may deem such a course preferable, to sentence such offenders when convicted of theft of property not exceeding rupees 50 in value, to the other penalties prescribed by pre-existing laws for that offence. Section 2, on the other hand, leaves no discretion whatever to the magistrate as regards juvenile offenders—imperatively enacting that he shall punish such in cases of the nature under notice, rather in the way of school discipline, than ordinary criminal justice, by sentencing them to undergo corporal punishment with a light ratan.

3. A question has arisen regarding the course to be pursued towards persons convicted a second time of theft of property not exceeding rupees 50 in value, whether corporal punishment should be repeated, or other regulations, providing for such contingencies, enforced. Referring to the above construction of this law, which leaves the infliction of corporal punishment, or the imposition of other penalty on adult offenders, in cases falling under its provisions, discretionary with the magistrate on primary conviction, the Courts of Nizamut Adawlut have ruled, that, as regards those offenders, a similar discretionary power is vested in the magistrate, relatively to secondary convictions, and, further in maintenance of the broad distinction between the cases of adult and juvenile offenders, have determined, that if a juvenile offender who may have been once sentenced to corporal punishment be still, on the occasion of his re-apprehension, and second conviction of theft of property, not exceeding rupees 50 in value, of such tender years, as to require, in the opinion of the magistrate, that he should be punished rather in the way of school discipline than ordinary criminal justice, it will be incumbent on the magistrate to pass sentence of corporal punishment.

4. From the definition of "magistrate," contained in the 1st paragraph of this order, it will, of course, be understood that corporal punishment must be inflicted in the presence of the "magistrate," "joint magistrate," or other "person lawfully exercising the power of a magistrate."

TO THE MAGISTERIAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 24th August, 1844.

No. 176.

Interdicts the practice of pressing tradespeople and artisans to follow military camps, with or without remuneration, by magistrates.

It is believed, that commissariat officers, on the formation of large camps, and the aggregation of large bodies of troops, have been in the habit of requiring the intervention of magisterial authority in procuring the attendance of tradespeople and artificers, of various denominations, to accompany such camps without remuneration, asserting, that they must trust to their chance of private employment while with the camp, for their recompence; with such requisitions, magistrates have ordinarily complied without objection, and without reference to the illegality and injustice of such impressment.

2. The subject having been recently brought to the notice of the Court, and represented to Government, the Military Board were requested to prevent the magistrates being called upon to enforce the attendance of artificers and tradespeople in military camps, or to explain the principle, on which the practice rested, and they have in the subjoined letter (which is published for general information,) disclaimed all participation therein, adding that "the impressment of men, whether for bazars or other purposes, is strictly prohibited."

3. Magistrates are accordingly requested to observe, that all requisitions of the nature above described, are discountenanced by the Military Board, that compliance therewith is denounced as "illegal and unjust," and that the responsibility of withholding such compliance from applications for the illegal exercise of their authority devolves upon them solely and entirely. The practice of pressing tradespeople and artisans to follow military camps, with or without remuneration, is hereby strictly interdicted, and the magisterial authorities will be careful in future to exert their official influence, in aid of the commissariat officers, only in such mode and measure, as may be consistent with the requirements and directions of law.

Copy of a letter, No. 1, *dated* 16*th July,* 1844, *from the Military Board to the Hon'ble the Lieutenant Governor, North-Western Provinces.*

Hon'ble Sir,—"We beg to acknowledge the receipt of Mr. Secretary Thornton's letter, No. 2275, of the 15th ultimo, with its accompanying copy of a communication from the Court of Nizamut Adawlut and enclosures, on the subject of compelling artisans and tradespeople to follow military camps, and in reply to state, that we consider the practice brought to notice altogether illegal and unjust, and one in which we beg to disclaim any participation. The impressment of men, whether for bazars or other purposes, is strictly prohibited, and it is not our wish, nor we may safely assert that of the commissariat, that it should be continued any longer.

2. "The magistrate of ——— states that the practice in question is illegal, and yet acknowledges, that he or his predecessors have, for a series of years, been in the habit of so acting illegally, on the mere request of a commissariat officer. We would suggest, that the magistrate be advised, that it rests entirely with himself to refuse compliance with any application for the illegal exercise of his authority."

TO THE MAGISTERIAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 177. *Western Provinces, 4th September,* 1844.

Forbidding the bestowal of money, new clothes, &c., on condemned criminals before they are led to execution.

THE Court of Nizamut Adawlut, for the North-Western Provinces, having had under their consideration the returns to their circular letter, No. 899, dated 1st June last, regarding the bestowal of money, new clothes, &c., on condemned criminals before they are led to execution, are pleased to interdict the practice, which is found to have been generally prevalent, and to prohibit all such donations and indulgences, as being calculated to detract from the force and effect of the solemn warning which the adjudgment of the last penalty of the law is designed and intended to convey.

NOTE.—Modified by No. 5 of the Circulars of the Inspector of Jails, which enjoins the supply of decent clothes.

TO THE SEVERAL SESSIONS JUDGES IN THE LOWER AND WESTERN PROVINCES.

No. 178. *Lower Provinces, 6th September, and Western Provinces, 11th October,* 1844.

With reference to Regulations II. of 1823, and VI. of 1828, regarding affrays attended with homicide, point to be noticed by session judges in their remarks on trials for that offence, if a sentence of less than five years' imprisonment be passed.

THE Court, having reason to believe that session judges, in awarding sentence on conviction of the offence of affray attended with homicide, do not pay attention to the provisions of Regulations II. of 1823 and VI. of 1828, direct me to desire that whenever in such cases a sentence less than five years' imprisonment may be awarded, you will invariably insert in your remarks on the trial, that the affray was not premeditated on both sides.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 13th September, 1844.

No. 179.

Jailors declared entitled to pension.

I AM directed by the Court to transmit to you for your information the accompanying copy of a letter, No. 1395, dated the 3rd instant, and its enclosure, from the Under-Secretary to the Government of Bengal, authorising jailors to be included in the list of public servants entitled, under existing pension rules, to a superannuation pension.

From the Government of Bengal to the Court, No. 1395, dated the 3rd September, 1844.

I am directed by the honorable the Deputy Governor of Bengal to forward the accompanying copy of a resolution passed by the Government of India, in the Home Department, under date the 17th ultimo, authorising jailors when duly qualified, by service and good conduct, to be included in the list of public servants entitled, under the existing pension rules, to a superannuation pension.

2. The Court are requested to communicate these orders to all the officers in charge of jails within this Presidency.

No. 151.

Home Department, the 17th August, 1844.

Read again a letter from the Secretary to Government of Fort St. George, No. 368, dated the 10th June last, with its enclosure, recommending that jailors may be included in the list of public servants entitled to a superannuation pension.

Read again a letter to the Secretary to the Government of Bengal, No. 350, dated the 6th ultimo, inquiring whether jailors, under the Bengal Presidency, are entitled to superannuation pensions.

Read a letter from the Under-Secretary to the Government of Bengal, No. 1202, dated the 25th idem, stating that the pension rules of the Bengal Presidency contain no provision for the grant of retiring allowances to jail darogahs, although police darogahs are included in the list of public servants to whom the rules are applicable, and conveying the opinion of the honorable the Deputy Governor that the responsibility attaching to the situations of jailors entitles them to some reward for long and faithful services.

Read again the pension rules passed on the 4th January 1831.

Resolution.—The Governor General in Council concurring in opinion with the Governments of Madras and Bengal, that this class of public servants should be permitted to share in the benefit of the rules in question—

Ordered—That the Governments of Bengal, Madras, Bombay and the North-Western Provinces be authorised to include jailors in the list of public servants, entitled, under the existing pension rules, to a superannuation pension.

Ordered also—That a copy of this resolution be sent to the Financial Department, whence the necessary communication will be made to the offices of audit and account.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 20th September, 1844.

No. 180.

Attention called to Act XVIII. 1844, which relieves the Nizamut Adawlut from the control of jails.

I AM directed by the Court to call your attention to Act XVIII. 1844, with a view to your addressing the Government direct on all matters therein indicated, regarding which you hitherto corresponded with the Nizamut Adawlut.

TO THE SESSION JUDGES IN THE NORTH-WESTERN PROVINCES AND SAUGOR AND NERBUDDA TERRITORIES, AND THE COMMISSIONER OF KUMAON.

Western Provinces, 24th September, 1844.

No. 181.

Explanatory of Circular Order, Nizamut Adawlut, No. 153, 16th December, 1843.

THE Court hereby notify, that the instructions contained in paragraph 2 of Circular Order, Nizamut Adawlut, No. 153, dated 16th December, 1843, are intended to apply to trials held with the assistance of a law officer, and to none other.

TO THE MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 27th September, 1844.

No. 182.

Rules to be observed in cases of criminals led to execution.

THE Court, having had before them the replies of the several magisterial authorities to their Circular Order, No. 7, of the 26th April last, are pleased, with the sanction of Government, to direct that, in all future cases, condemned criminals, if not possessed of decent clothes, be invariably supplied with a suit and a cap, and, at

the same time, to prohibit the practice heretofore existing in some districts, of allowing music, money, and other indulgences.

TO THE MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 4th October, 1844. No. 184.

The powers exercised by the several officers of each district, to be specified in part 1, Statement No. 1.

THE Court request that in future the extent of the powers exercised by the several officers of each district, be specified in part 1, statement No. I., under the head "Officers employed as Magistrates, &c.," for example:

Mr. ———— Magistrate or Joint Magistrate.
Mr. ———— Assistant with special powers.
Mr. ———— Assistant.
Mr. ———— Deputy Magistrate, exercising powers of an assistant, *or* exercising special powers.
Mr. ———— Principal sudder ameen, exercising powers of a magistrate, *or* of an assistant.
Mr. ———— Sudder ameen, exercising special powers.
Moulvy ———— Law officer, with special powers.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 18th October, and Western Provinces, 29th November, 1844. No. 185.

Rule 1 of Circular Order No. 82, Vol. III. regarding service of processes, under Act XXIII. 1840, modified.

THE following rule, in modification of the 1st rule of the Circular Order No. 82, dated L. P. 1st March and W. P. 18th June, 1841, on the subject of Act XXIII. 1840, is published for general information.

Every criminal process will be directed to the justices of the peace for the town of Calcutta, but forwarded in an envelope to the Hon'ble Company's attorney, either by dâk or by the hands of a peon or other public officer as may be most convenient, with a letter drawn up agreeably to the annexed form A. The Honorable Company's attorney will prepare it for endorsement by a judge of the Supreme Court, and, after endorsement, transmit it (accompanied with the letter abovementioned) to the police office for execution.

2. The words "the deputy sheriff" occurring in the 3rd and 6th of the rules of the abovementioned Circular Order are to be altered to "the Honorable Company's attorney."

A.

TO THE HONORABLE COMPANY'S ATTORNEY,

CALCUTTA.

SIR,

I beg leave to enclose (a notice* to be served on the parties therein named) which I request you will have the goodness to present to the judges of Her Majesty's Court agreeably to Act XXIII. 1840.

2. On intimation being made to me of the expenses of serving this process, the amount will be forwarded to the justices by a bill on the General Treasury. A person will attend hereafter (or, a person accompanies this letter) to point out the parties.

I have, &c.,

(Signed) ————————

Magistrate.

Zillah ———— }
January, 184 . }

NOTE.—See No. 40, Vol. II.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

No. 186.

Lower Provinces, 25th October, 1844.

The rule in Section 2, Regulation XXXVIII. 1793, extended to uncovenanted judicial officers.

THE Court are pleased to direct, with the sanction of the Government, that the rule in Section 2, Regulation XXXVIII. 1793, prohibiting public officers from lending money to persons within their jurisdiction, be extended to all uncovenanted judicial officers.

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* (A Proclamation to be affixed to the outer door of the house in which the parties reside.)

or

(A Subpœna to be served on the witnesses therein named.)

or

(A Warrant to seize and apprehend the witnesses therein named) and so forth, *mutatis mutandis*.

TO THE SESSION JUDGES IN THE LOWER PROVINCES AND THE AUTHORITIES IN THE EXTRA-REGULATION PROVINCES.

Lower Provinces, 25th October, 1844.

No. 187.

Rules to be observed in sending records of trials referred to or called for by the Nizamut Adawlut.

THE Court request that the following rules be attended to in the transmission of the records of trials regularly referred to or called for by them.

1. A copy of the English calendar to be invariably placed with the nuthee, and a mark placed opposite the name of every witness included therein who may have been examined on the trial.

2. The preparation of the list of papers composing the record, (a form of which is exhibited at page 67, volume II. Nizamut Adawlut Circulars) to be carefully superintended.

3. As many trials are now required to be submitted in original, all depositions are to be correctly and legibly written.

NOTE.—See No. 230, Vol. III.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 25th October, 1844.

No. 188.

Regarding security bonds executed by the sureties of the judicial treasurers and other officers, entrusted with the charge of money, whether public or belonging to private individuals.

THE Court are induced to presume, that the security bonds, executed by the sureties of the judicial treasurers, and other officers entrusted with the charge of money, whether public or belonging to private individuals, are drawn up in terms so vague and indefinite, as to impair their sufficiency, and that, notwithstanding the instructions contained in Circular Orders Sudder Dewanny Adawlut, cited below,* and the check imposed by the periodical submission of the statement and certificate thereby prescribed, the securities are not annually examined and revised with that careful scrutiny which has been strictly enjoined.

2. The several judicial officers were desired in taking securities, to be careful that the sureties should bind themselves and their heirs to make good all losses sustained by the default or fraud of the officer, for whose conduct they became responsible, and to secure the pignoration of property on the part of the surety, the amount of which should be determinable by the value of the property or the amount of money likely to be left in hands of the officers, from whom the security was demanded.

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* No. 34, dated 23rd September, 1831. No. 150, ditto 3rd July, 1835. No. 193, ditto 20th January, 1837.

3. The Court, having reason to believe, that the terms of the security bonds executed by the sureties of judicial treasurers and other officers above indicated, do not express the full measure of the liability, implied in the instructions above cited, are pleased to subjoin a form of bond which sufficiently comprehends all the obligations assumed by sureties, and to direct, that the judicial authorities, in inquiring into the sufficiency of the security of the officers on their establishments at the approaching termination of the year, will be pleased to compare carefully the phraseology of the bonds, (which on this and every other occasion of the like nature should be invariably subjected to their inspection,) with the terms of the annexed formula, in the event of the former being deficient in clearness and comprehensiveness, or essentially different from that contemplated by Circular Order of the 23rd September, 1831, No. 34, to cause new security bonds to be executed by the sureties, corresponding with that which is appended to this order.

4. In reporting the result of the prescribed revision, according to the prescribed form, the judicial authorities are hereby required to certify, that the bonds have been carefully examined, and found to correspond in their terms with the annexed formula, and that memorials thereof have been registered in pursuance of the instructions conveyed in Circular Order, Sudder Dewanny Adawlut, No. 15, dated 2nd May, 1843.

5. It will be of course understood that the obligation, resting on the judicial authorities, of instituting the necessary inquiries to establish the validity and sufficiency of the security furnished by those of their subordinates who hold offices of pecuniary responsibility, remains unimpaired, and that the certificate, prescribed by Circular Order, Sudder Dewanny and Nizamut Adawlut, No. 193, dated 20th January, 1837, must be invariably inserted at the foot of the annual statement, which they are directed, by orders above referred to, to submit.

مین کہ ولد کوٹہي ساکن کاھون

جو پیشگاہ صاحب جج عدالت دیواني ضلع
سے بابت خزانہ متعلقۂ عدالت مذکورہ کے اِس محکمے کے
خزانچي سے بتعداد روپئے کے تصرف ضامني
مطلوب ھی اِسواسطے مین برضا اور رغبت مسمی
کا کہ فی الحال بعہدۂ خزانچي گري محکمۂ مذکورہ کے مقرر
ھی متکفل ھوتا ھون اِس اِقرار سے کہ جب کبھي منجملہ
روپیہ یا لوٹ و غیرہ نقد اور جنس محولہ خزانچي مذکور کے

ارروي حساب کے کچھہ باقي سرکار کي ذمہ مشار الیہ کے نکلے
تو مین ضامن بلا عذر اور حجت زر ذمگي خزانچي مذکور کو
اپنے پاس سے ادا کرون اور جایداد مصرحۂ ذیل کو کہ مالیتی
روپیہ کي بلاخلش آزآن خاص مجھہ ضامن
کي ھی بطریق نشان ضمانت کے مکفول کرتا ھون اور مین
یہہ وثیقہ بطور تصرف ضامني کے لکھہ دیتا ھون کہ عندالحاجت
کام آوے المرقوم

TO THE CIVIL AND SESSION JUDGES IN THE NORTH-WESTERN PROVINCES, AND SAUGOR AND NERBUDDA TERRITORIES, AND THE COMMISSIONER OF KUMAON.

Western Provinces, 18th November, 1844.

No. 189.

Attention directed to Government orders, dated 31st March, 1834, regarding contingent charges.

THE Court, finding that the orders of Government, dated 31st March, 1834, on the subject of contingent charges, incurrible by the civil and session judges, are frequently overlooked, are pleased to publish an extract (paragraphs 1 and 2) from the same, for general information, and direct, that the authorities to whom they are applicable, will henceforward follow the practice thereby prescribed, and cease to submit applications for the disbursement of money through the intervention of the Court.

Extract (paragraphs 1 and 2) from the orders of Government, dated 31st March, 1834.

Para. 1. In modification of the existing rules, on the subject of the contingent charges of the office of civil and sessions judge, and commissioner of circuit, the honorable the Vice President in Council is pleased to determine, monthly statements of such charges incurred by them shall in future be forwarded by the civil and sessions judges, and by the commissioners respectively, to the civil auditor. The duty of examining and checking the statements being vested in that officer, who will possess authority to pass without further reference, all such items of charge as he may think usual and unobjectionable, whatever their amount, reporting those which may not be of that character, in quarterly statements, for the consideration and orders of Government.

2. It is to be understood, that it will not be necessary to apply for the sanction of the civil auditor, previously to incurring any contingent charge. Disbursements may be made in the first instance on the responsibility of the civil and sessions judges, or the commissioners, as the case may be.

TO THE OFFICERS IN CHARGE OF JAILS IN THE NORTH-WESTERN PROVINCES.

No. 191.

Western Provinces, 20th January, 1845.

Requests discontinuance of submission to the Nizamut Adawlut, of the six monthly reports, prescribed by Circular Order, No. 176, dated 31st July, 1835.

THE Court of Nizamut Adawlut, having been relieved by Act XVIII. 1844, from the duty of supervising the management of jails, and all matters therewith connected, request that the submission of the six monthly reports, prescribed by Circular Order Nizamut Adawlut, No. 176, dated 31st July, 1835, may be henceforth discontinued, and that the criminal authorities will be guided in regard to these returns and other matters of the same description, by such instructions as they may receive from the Government of the North-Western Provinces.

TO THE MAGISTRATES IN THE LOWER PROVINCES.

No. 192.

Lower Provinces, 17th January, 1845.

Police darogahs are to give effect to the rules issued regarding transmission of moonsiffs' records monthly to the sudder station.

THE Court call the attention of magistrates in the Lower Provinces to a Circular Order addressed under this date to the civil judges, regarding the practice to be in future pursued by moonsiffs, and others, in transmitting the records of monthly decisions to the sudder station, and request that the police darogahs, subject to their control, may be furnished with the requisite instructions for giving effect to the directions therein contained.

Circular issued to the Civil Judges, under date the 17th January, 1845.

The Court are pleased to issue the following remarks and orders, regarding the transmission, by the several subordinate courts, of the records of monthly decisions to the sudder station.

2. By Clause 8, Section 10, Regulation XX. 1817, police darogahs are required to forward, by the thannah dâk, or by their burkundauzes, *as "occasions may offer,"* papers sent to them

by the subordinate civil judges for that purpose. On the other hand, the transmission of the records of monthly decisions is directed to be *periodically* made, and cannot, if the rules prescribed by Circular Order, Sudder Dewanny Adawlut, No. 49, dated 20th September, 1839, are to be enforced, be allowed to depend on the *occasional* opportunity, which a police darogah may think fit, either to improve, or on the other hand to leave unheeded. Independently of this, the Court observe, the increased bulk of the records of the subordinate tribunals, arising from the enlargment of their powers, and the consequent accession of judicial business before them, opposes a serious obstacle to the employment of the thannah dâk, as a means of conveying them to the sudder station.

3. The Court, however, are not disposed to dispense with the attendance of a police burkundauze, which is authorised by law, and affords some security for the safe arrival of papers in transit; and they are pleased accordingly, with the permission of Government, to direct that the subordinate judicial officers forward the records of monthly decisions by a specified date, to the nearest thannah, for transmission to the sudder station, taking a receipt from the darogah, or, in his absence, from the head officer present at the thannah. The judicial officers will provide the requisite coolies for the conveyance of the records, and indent on the judge for the expense incurred thereby. It shall be the duty of the police darogah to despatch the papers in question without delay to the sudder station, under charge of a burkundauze. A chelan, under the signature of the judicial officer, exhibiting the date of transmission to the thannah, and the number of misls, will accompany the records, and serve to show whether there has been any delay on the part of the police in forwarding them to the sudder station.

4. The judges are requested to determine the period, within which each moonsiff shall be required to have his records of monthly decisions delivered to the police darogah, with due advertence to the necessity of enforcing the provisions of Circular Order, Sudder Dewanny Adawlut, No. 49, dated 20th September, 1839, and with reference to the distance of each receiving thannah from the sudder station.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 22nd January, 1845.

No. 194.

Attention of the magisterial officers directed to the pro-

THE Court have reason to apprehend, that witnesses in general are required to be in attendance for a much longer period than is either desirable, or requisite. Their detention arises sometimes from

longed detention of witnesses; and the means of preventing the same pointed out. Form of diary prescribed.

the postponement of their examination for some days after their arrival in the magistrate's court, and sometimes from the omission of the magistrate to peruse the depositions as soon as they are recorded by the mohurirs, or from his neglecting, in heavy and complicated cases, to examine the witnesses on points, which may appear to have been insufficiently elucidated. But, to whatever cause attributable, it is obvious that the prolonged detention to witnesses must, in the case of indigent individuals especially, prove highly distressing, and tend, in general, to create a reluctance on the part of private parties to attend the criminal courts, and aid, by their testimony, the efforts of magisterial authority for the detection of crime, and of those engaged in its commission.

2. The adoption of a methodical plan will, the Court believe, have a beneficial effect, by directing the attention of the magisterial officers in a special manner to this part of their duties, and thus preventing the prolonged detention of witnesses, except for good and sufficient reason. With this object the Court circulate a form of diary, which has been in actual use in the North-Western Provinces, and which the magistrates are hereby desired to introduce in their own offices and in those of their subordinates.

3. The several headings of the diary are so clear, that the brief directions annexed to the form will suffice to show the manner in which it should be prepared.

Diary of Witnesses in attendance in the Magistrate's Court, alluded to in Para. 2, of the Circular Order.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.
					Case in which Concerned.		Number of Days Detained.								
Date of Arrival.	Date of Deposition, &c.	Date of Attestation.	Name.	Designation.	Plaintiff.	Defendant.	1 Day.	2 Days.	3 Days.	4 Days.	5 Days.	6 Days.	7 Days.	More than 7 Days.	Name of Mohurir taking Evidence.
Oct. 5th,..	5th,	6th,	Gungaram, ..	Complainant, ..	Gungaram, ..	Imam Buksh,	1	..	..	..	..	..	..	..	Gungaram.
,, ..	5th,	6th,	Rudeh, ..	Witness, ..	Ditto, ..	Ditto, ..	1	..	..	..	..	..	..	..	Ditto.
,, ..	5th,	7th,	Imambuksh,..	Defendant, ..	Ditto, ..	Ditto, ..	..	1	..	..	..	..	..	..	Ditto.
,, ..	6th,	8th,	Roopey, ..	Petitioner, ..	Roopey, ..	Imamee, ..	..	..	1	..	..	..	..	..	Ditto.

This book is always on the magistrate's table in the Kutcherree. The nazir fills up the 1st, 4th, 5th, 6th and 7th columns, whenever a petition may be presented or a case be received from the thannah; he then fills up the 16th column, and delivers the case to a mohurir, and, if he do not receive it back ready on the same day, reports accordingly to the magistrate. On receiving it he fills up the 2nd column, and the magistrate signs all the depositions, and when that officer *hears and attests* the depositions, he signs them again, and causes the 3rd and corresponding columns to be immediately filled up in his own presence.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 31st January, and Western Provinces, 18th April, 1845.

No. 195.

Promulgates extract from a despatch of the Court of Directors, suggesting a cautious exercise of the powers conferred on the criminal authorities by Act XXIV. 1843.

In pursuance of instructions from the Government, the Court circulate the subjoined extract from a despatch from the Honorable the Court of Directors, for the information and guidance of the criminal authorities.

Extract from a Despatch from the Hon'ble the Court of Directors in the Legislative Department, dated the 4th September, 1844, *No.* 21.

Para. 32. It is represented that the crime of dacoity is followed professionally by considerable numbers, as a means of livelihood, in our own territories, and in those of Native States; and that the robberies are committed by regularly organized gangs acting under the direction of recognized leaders. The object of the present Act is to apply to dacoits the special provisions which have proved very efficacious in suppressing the crime of thuggee under similar circumstances. Persons proved to have belonged to any gang of dacoits are made liable to transportation for life, without the necessity of proving their participation in any act of dacoity; and persons accused of that offence, wherever committed, may be brought for trial before any court of competent jurisdiction.

33. We do not withhold our sanction even of an enactment of so great severity for an object of such incalculable benefit to society, as the effectual suppression of dacoity; but we must earnestly call your attention to the caution addressed to you in our judicial despatch of the 28th August, 1839, to be on your guard against the abuse and oppression to which the systematic and exclusive employment of *approvers* for the conviction of accused persons is necessarily liable. The testimony of men, by their own acknowledgment stained with the same crimes which they lay to the charge of others, stands always in need of some corroborative evidence; and if it be received with favor or without distrust, may, from vindictive or selfish motives, or even from mere wantonness, be turned equally against the innocent and the guilty. We regret that you should have thought it necessary to make the act retrospective in its operation, as under a strict interpretation parties who have ceased to belong to gangs of dacoits, may be rendered liable to its penalties. You will be careful to guard against such evil consequences from the new enactment; and if your precaution should prove ineffectual, you will not fail to rescind it.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 28th February, and Western Provinces, 15th March, 1845.

No. 196.

Construction 1344 superseded.

I AM directed by the Court to inform you that it has been ruled, in supersession of Construction 1344, that none but magistrates, joint magistrates, and persons lawfully exercising the powers of a magistrate, can decide suits under Act IV. of 1840.*

TO THE MAGISTERIAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 28th February, and Western Provinces, 4th April, 1845.

No. 197.

Commitments of European British subjects for trial before the Supreme Court, to be supported by direct proof of their amenability to that Court.

THE Court deem it proper to intimate to the magisterial authorities that in the event of its being found necessary to commit a European British subject for trial before the Supreme Court, it will be necessary for the conviction of such person that there be direct proof of his amenability to that Court. The mode of proof will consist in the evidence of a credible person, who knows the accused, and his place of birth, or who has heard him declare of what country he is.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 5th March, 1845.

No. 198.

Promulgates extension of rule in Section 2, Regulation XIX. 1803, to all uncovenanted judicial officers.

THE Court are pleased, with the sanction of Government, to direct, that the rule in Section 2, Regulation XIX. 1803, prohibiting public officers from lending money to persons within their jurisdiction, be extended to all uncovenanted judicial officers.

2. It will of course be understood, that the foregoing prohibition does not extend to the officers on the ministerial establishments of the several civil and criminal courts, but to those functionaries only, who are legally empowered to exercise judicial functions.

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* See Act XXVII. 1845.

TO THE MAGISTERIAL AUTHORITIES IN THE LOWER PROVINCES.

No. 199. *Lower Provinces, 14th March, 1845.*

Instructions regarding examination of European British subjects, with form of examination.

THE Court deem it proper to intimate to the magisterial authorities that European British subjects, brought before them for any alleged offence, should not be interrogated upon the matters charged against them, but merely asked if they wish to make a statement in regard to the charge, and at the same time warned that whatever they may say will be made use of against them. After such question and warning, the statements made by the accused are to be taken down.

2. A copy of the form of examination to be made use of is annexed.

"The examination of
taken by me Esquire,
magistrate of and one of Her
Majesty's justices of the peace, the
day of 184 . The said examinant being charged
on the solemn affirmation of with having
(here state the charge) and being duly cautioned, saith

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES, KUMAON AND SAUGOR AND NERBUDDA TERRITORIES.

No. 200. *Western Provinces, 16th April, 1845.*

In cases instituted under Act IV. 1840, absolute proof of actual forcible dispossession is an indispensable condition to the restoration of the party complaining to possession.

THE Court, having reason to believe, from a comparison of the statistical returns from different districts, that Act IV. 1840, is variously administered, and that to this diversity of legal interpretation, rather than to any local or peculiar circumstances, the very remarkable difference in the number of suits instituted under its provisions, is attributable, desire to point out, for the guidance of the criminal authorities, that absolute proof of actual "forcible" dispossession is an indispensable condition to the restoration of the party complaining to possession; the mere assertion of an apprehension, that a breach of the peace will ensue, and that dispossession will follow, is insufficient, under the terms of Section 4 of the Act, to legalize the reception and investigation of such complaints, it being obviously the intention of the law, that the complaint of having been "without authority of law forcibly dispossessed" of the disputed property, shall be substantiated by "the examination of the necessary witnesses and documents,"—or, in other words, by the

abduction of direct evidence, before any order can legally issue for the re-instatement of the party complaining in possession of the subject of dispute.

2. The several criminal authorities, competent to try and determine suits under Act IV. 1840, will be careful to observe the legal obligation above recited, and to remember that, in complaints of the nature adverted to, the only point to be established by the complainant is the fact of forcible dispossession, on proof of which the magistrate is directed to "record a proceeding, ordering the party complaining to be put again into possession of the subject of dispute, and maintained in possession, until the right to possession be determined by a competent court." In like manner, the Court observe, the only point to be tried on revision of the case in appeal, is, whether such forcible dispossession has been established or not; and any endeavour to ascertain and record the "right to possession" is not only irrelevant, but constitutes in fact an illegal and undue arrogation of authority on the part of the deciding officer: evidence of forcible dispossession carries with it, as a matter of course, proof of antecedent possession, the maintainance of which, without reference to right, is the object of the law, and the utmost limit of authority conferred by the Act under consideration.

3. Session judges are desired to enforce a strict adherence to the foregoing principles in the decision of cases under the provisions of Act IV. 1840, and to correct any departure therefrom, which may fall under their observation.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 25th April, 1846. No. 202.

Public officers cannot hold lands in their own districts.

I AM directed by the Court to forward to you, for your information, and for communication to the uncovenanted judicial officers subordinate to you, the annexed extract, paragraph 75, from a despatch No. 1, from the Hon'ble the Court of Directors, dated the 15th January last.

Para. 75. "We have repeatedly informed you, that we cannot sanction any departure from the established rule, that no officer in our service can be permitted to hold lands in any district in which he exercises civil authority.

"26. Mr. Deputy Collector Nott's memorial, praying to be allowed to purchase lands at public sales held by collectors, transferred to the Bengal Government for orders."

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

No. 203. *Lower Provinces, 25th April,* 1845.

Civil writs for the apprehension, or personal attendance, of police officers, are to be served through the magistrate.

The following rule of practice is established, with the sanction of the Government.

Writs for the apprehension of the person, or for requiring the personal attendance of police officers under civil processes, are to be issued through the magistrate. This rule will not of course apply to notices or proclamations, not requiring personal attendance, or to processes which give the party the option of appearing in person or by vakeel.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

No. 204. *Lower Provinces, 6th June,* 1845.

Error in Bengalee translate of Regulation XX. 1817.

The Court of Nizamut Adawlut for the Lower Provinces, circulate the subjoined amendment of an error in the Bengalee version of Clause 2, Section 16, Regulation XX. 1817.

ইং ১৮১৭ সালের ২০ আইনের ১৬ ধারার ২ প্রকরণ।

২ দ্বিতীয় প্রকরণ। পোলিসের দারগাদিগকে বারণ করাযাইতেছে যে মাজিস্ট্রেট সাহেবের হজুর হইতে তাহার দিগের নামে খাস অর্থাৎ বিশেষ হুকুম হওন ব্যাতিরেকে লুটের কি চুরির মাল তালাসি করিতে কোন এমারতের কি ঘরেরভিতরে না যায় কিন্তু যদি চোরা কি লুটকরা মালের মালিক কি অপরাধকরণের সঙ্গি সাথি অথবা অন্য ব্যক্তি লুটহওয়া কি চোরা মালের তালিকার ফর্দ্দ থানাতে দাখিল করে এবং এমত এজহার করে যে সত্য লূট কি চুরি হইয়াছে এবং মাতবর হেতুতে আমারদের বোধ হয় যে চোরা মাল অমুক স্থানে কি অমুক মোকামে আছে তবে পোলিসের দারগা মাজিস্ট্রেট সাহেবের হুকুম বিনা এমারত কি ঘরের ভিতরে গিয়া তালাসি করিতে পারে ইতি।

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 4th July, and Western Provinces, 1st August, 1845.

No. 205.

Form of writ under Act X. 1845, for service in Calcutta.

WITH reference to the Circular Orders No. 82, dated Lower Provinces, 1st March, and Western Provinces, 18th June, 1841, and No. 185, dated Lower Provinces, 18th October, and Western Provinces, 29th November, 1844, regarding the forms of processes for service within the jurisdiction of the Supreme Court, under Act XXIII. 1840, I am directed to transmit to you the subjoined form, to be used in the like case and otherwise under Act X. 1845.

WARRANT IN CASES OF FAILURE TO SERVE SUMMONS.

To Mahomed Nazim, Nazir of the Fouzdarry Court of the 24-Pergunnahs.

Whereas a summons was issued against Ramdhun Mistry, to appear and answer to a charge of assault preferred by Sheikh Rumjoo, and whereas it has been proved that, notwithstanding due diligence, the officer entrusted with the summons has been unable to serve the same on the defendant, you are hereby directed to apprehend the said Ramdhun Mistry, and to produce him before the magistrate of the said court. In this fail not. Dated the 5th day of April, 1845.

A. B.,
Magistrate.

L. S.

TO THE SESSIONS JUDGES IN THE NORTH-WESTERN PROVINCES, AND SAUGOR AND NERBUDDA TERRITORIES, AND TO THE COMMISSIONER OF KUMAON.

Western Provinces, 8th July, 1845.

No. 206.

Sessions judges requested to confine their attention in the preparation of annual reports on criminal justice, to the subjects

THE Court observing that some of the sessions judges still continue to advert in their annual reports on the administration of criminal justice to the condition and internal management of the prisons, are pleased to remind them, that by Act XVIII. of 1844, the control and supervision of those establishments has been withdrawn from the Nizamut Adawlut, and that the inclusion of such matters, as well as of questions relating to the constitution and

denoted in paragraphs 5 to 11 of Circular Order, Nizamut Adawlut, No. 98, dated 27th June, 1842.

character of the police, serves only to increase the bulk of the annual reports, without effecting any useful purpose.

2. The sessions judges are requested to confine their attention to the several subjects, denoted in paragraphs 5 to 11 of Circular Order, Nizamut Adawlut, No. 98, dated 27th June, 1842, being careful particularly to note such information in regard to the condition of their respective districts, "as local experience and observation will readily supply, but to convey which the most elaborate figured statements would be inadequate."

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 207.

Western Provinces, 22nd July, 1845.

Civil and criminal authorities desired to refer applicants for copies of Court's orders to the Court, instead of granting copies asked for.

THE Court desire that, whenever applications may be made to the civil or criminal authorities for copies of any letters from, or orders passed by them, they will refer the applicants to the Court, instead of granting the copies asked for.

2. This rule is not to be considered to apply to the sentences of the Nizamut Adawlut, in criminal trials.

NOTE.—See Circular Order, No. 218, 17th Nov. following.

TO THE CIVIL AND SESSIONS JUDGES IN THE LOWER PROVINCES.

No. 208.

Lower Provinces, 25th July, 1845.

Officers of Government are exempted from the payment of ferry tolls when proceeding on the public service.

IN pursuance of the orders of Government (dated the 9th instant,) the following copy of a letter (No. 459, of the 28th ultimo,) from the Under-Secretary to the Government of India in the Home Department, exempting all Government officers from the payment of ferry tolls when proceeding on the public service, is circulated for general information.

From the Under-Secretary to the Government of India in the Home Department, to the Under-Secretary to the Government of Bengal, under date the 28th June, 1845.

"I am directed to acknowledge the receipt of your letter No. 981, dated the 28th ultimo, with its enclosure, and in reply to state, for the information of the Right Honorable the Governor of

Bengal, that the Governor General in Council approves of the proposition submitted by Mr. Dampier, superintendent of Police, Lower Provinces, and authorises that all officers of Government be exempted from the payment of ferry tolls within the division to which they may belong when they are moving in those divisions on the public service, and any officer not entitled to exemption under this definition of the rule, who may prefer a claim to exemption based on the principle which the rule is intended to establish, will refer his claim, for special consideration and orders, to the department to which he belongs."

TO THE CIVIL AND SESSIONS JUDGES IN THE LOWER PROVINCES.

Lower Provinces, 25th July, 1845.

No. 209.

Rules regarding examination of candidates for the situation of law officer, and forms of certificates.

UNDER the orders of Government, dated the 16th instant, the instructions addressed to Lieutenant Colonel Riley, examiner of candidates for the situation of law officers, together with the forms of certificates therein alluded to, are circulated for general information.

From the Under-Secretary to the Government of Bengal, to the Secretary to the Law Examination Committee, under date the 16th July, 1845.

"With reference to my letter No. 840 of the 14th May last, I am directed to request that the future examination of candidates for the situation of Hindoo, or Mahomedan law officer, may be conducted by yourself and the pundits of the Hindoo College for Hindoos, and in like manner by yourself and the Mahomedan law professors of the Muddrussa for Mahomedans, as proposed in your letter of the 22nd April last, No. 27.

"The certificates granted to passed candidates, will be in the forms A, or B, prescribed in the appendix to Regulation XI. 1826, modified as follows, and attested with your signature, as "examiner of candidates for the situation of law officers."

"APPENDIX A.

"I hereby certify, that at an examination held at the presidency of Fort William, on the according to the provisions of Regulation XI. of 1826, and Act V. of 1845, A. B. was found to be qualified by his eminent knowledge of the law to hold the office of law officer in any of the established courts of judicature.

"This certificate has been granted to the said A. B. under the seal of the College, this day of in the year of corresponding with the

(Signed) C. D.,
Examiner of candidates for the situation of law officer."

"APPENDIX B.

"I hereby certify, that having duly considered the proceedings held on the examination of A. B. conducted according to the provisions of Clause 3, Section 5, Regulation XI. 1826, and Act V. of 1845, I consider the said A. B. to be duly qualified by his knowledge of law to hold the office of law officer in any of the established courts of judicature.

"This certificate has been granted to the said A. B. under the seal of the College, this day of in the year of corresponding with the

(Signed) C. D.,
Examiner of candidates for the situation of law officer."

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 25th July, and Western Provinces, 12th September, 1845.

No. 210.

Construction of Section 2, Act XXXI. 1841, in modification of 3rd Clause of Circular Order, No. 100, L. P. 7th, and W. P. 28th January, 1842.

THE Courts of Nizamut Adawlut, for the Lower and Western Provinces, have ruled, in modification of the 3rd rule of the Circular Order No. 100, dated Lower Provinces, 7th, and Western Provinces, 28th January, 1842, that every sentence or order of an assistant vested with special powers, passed in a criminal trial or judicial proceeding awarding a punishment within the limitations expressed in Section 2, Act XXXI. 1841, is appealable to the magistrate, joint magistrate, or officer exercising the powers of a magistrate.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 2nd August, 1845.

No. 211.

Construction No. 529, rescinded.

THE Court are pleased to notify, for the information and guidance of the several criminal authorities, that Construction No. 529, which declares specially empowered assistants competent to require moochulkas and security under Regulation XV. of 1825, has been rescinded.

TO THE SEVERAL CIVIL AND SESSIONS JUDGES IN THE LOWER PROVINCES.

Lower Provinces, 15th Augusl, 1845.

No. 112.

Modification of the orders of Government, regarding travelling allowances to ministerial officers, communicated by the Circular Order, Sudder Dewanny Adawlut, No. 50, 20th September, 1839.

THE Court circulate the following extract (paragraph 1) from the orders of Government, No. 1360, of the 30th ultimo, for the information and guidance of the several civil and session judges under their control.

Extract (paragraph 1) from a letter from the Government of Bengal to the Court, No. 1360, of the 30th July, 1845.

Para. 1. With reference to your predecessor's letter No. 565, of the 19th April, 1844, I am directed to state, for the information of the Sudder Court, that the Government have been pleased, in modification of the orders of 29th August, 1839, to authorise travelling allowance to ministerial officers, when required to accompany their superior by dâk, at the rate of 4 annas per mile, and during halts at the rate authorised by the above orders, *viz.* 3-10ths of their respective salaries. In other respects the orders of 29th August, 1839, are to continue in force.

TO THE SESSIONS JUDGES IN THE LOWER PROVINCES.

Lower Provinces, 15th August, 1845.

No. 213.

Intimating issue of a new commission of the peace, comprising the names of all covenanted civil officers.

PURSUANT to the instructions of the Government, I am directed by the Court to intimate to you that a new commission of the peace has been issued from the Supreme Court, comprising the names of all the covenanted civil officers employed under this Government.

TO THE SESSIONS JUDGES IN THE LOWER PROVINCES.

No. 214. *Lower Provinces, 22nd August,* 1845.

Instructions regarding sessions judges' statement No. 12.

WITH a view to the correct preparation, in future, of the sessions judges' statement, No. 12, which is intended to show the average duration of cases in the sessions' courts, I am directed to notice certain errors in some of the statements for 1844.

2. In the statements of certain districts the totals are given and not the details. As indicated by the headings, the particulars of each case should be separately entered therein, thus :—

Col. 1.	Col. 2.	Col. 3.	Col. 4.	Col. 5.
1	10	6	0	16
2	7	6	1	14
3	11	1	0	12
Total, .	28	13	1	42

3. If the number of cases be too numerous to be conveniently entered in the lithographed form, the total number of cases of each month, and the total number of days occupied by them, may be entered thus :—

Col. 1.	Col. 2.	Col. 3.	Col. 4.	Col. 5.
January, 7 cases,	70	60	24	154
February, 8 cases,	105	34	74	213
Total, 15 cases,	175	94	98	367

To certain session judges.

4. The period between the date of commitment and the date of commencement of trial, should have been given in every case, without reference to the cause which occasioned delay in taking up a commitment, any needful explanation being entered under the column of remarks.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 19th September, and Western Provinces, 10th November, 1845.

L. P. No. 215.

W. P. No. 217.

Attention called to Construction 857, and instructions communicated regarding the wording of charges for receiving stolen or plundered property.

THE Court deem it necessary to call the attention of the criminal authorities to Construction No. 857, which prohibits the employment of the term "Thangeedaree" in charges for knowingly receiving stolen or plundered property, and enjoins the use of the words دیدہ و دانستہ گرفتن و داشتن مال سرقہ یا مغروتہ

2. The Court further direct that an addition be made to the charge in such cases, to show distinctly whether the property illegally possessed, was acquired by theft, burglary, dacoity, highway-robbery, or thuggee.

Session judges to note, on the record of trials held without the aid of a law officer, the law applicable to it.

3.* The reason of such addition is, that the magistrate of any district is competent under Acts XVIII. 1839 and XXIV. 1843, to commit for the crime of receiving property any where obtained by dacoity or thuggee, and the commitment may be tried by the session judge without the aid of a law officer or assessors; whereas charges for the guilty receipt of property acquired by theft, burglary, or highway-robbery, can only be tried in the district in which the property was found, and the trial cannot be held without recourse to a law officer, or to the provisions of Regulation VI. 1832.

4.† The Court direct that session judges who may try a case without the aid of a law officer or assessors, will denote on the face of the record the Regulation or Act under which the trial is held.

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* The 3rd para. of the Western Court's Circular was thus worded:

"The reason of such addition is, that persons accused of receiving property stolen or plundered by Thuggee or Dacoity, may be committed under Acts XVIII. of 1839, and XXIV. of 1843, by any magistrate within the territories of the East India Company, and may be tried by any court which would have been competent to try him had his offence been committed within the zillah where that court sits, whereas in the trial of charges for the guilty receipt or purchase of property acquired by theft, burglary, or highway-robbery, it is essential to its legal validity that regard be had to the jurisdiction within which the offence was perpetrated, and to the competency both of the committing and trying officer to take cognizance of the same."

† This paragraph was not published by the Western Court.

TO THE SESSIONS JUDGES IN THE LOWER AND WESTERN PROVINCES.

No. 216.

Lower Provinces, 26th September, and Western Provinces, 17th November, 1845.

Prisoners are to be referred to in depositions and futwas by their names, not by the numbers they bear in the calendar.

SEVERAL instances having come before the Court, in which prisoners are referred to in the deposition of witnesses, and in the futwas of the law officers, by the numbers they bear in the calendar, and not by their names, I am directed by the Court to request that the practice be avoided, and that the *names* mentioned by witnesses be invariably written down.

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 218.

Western Provinces, 17th November, 1845.

Circular Order No. 207, 22nd July last, modified.

THE Court direct that the instructions contained in the 1st paragraph of their Circular Order, No. 207, dated 22nd July last, be, and be considered, applicable only to "copies of letters," resolutions, and other orders, recorded in the English language.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

W. P. No. 219.

L. P. No. 220.

Western and Lower Provinces, 12th December, 1845.

The civil surgeon is to record his opinion on applications for the release of blind prisoners, as to the origin of the calamity and other particulars.

IT having come accidentally to the knowledge of the Court, that convicts are frequently in the habit, with a view to obtain their liberation from jail, of causing temporary, and possibly permanent, loss of vision, by applying lime and other injurious substances to their eyes, the Court deem it proper, *with the sanction of the Government*,* to warn the officers having charge of jails, of the prevalence of this practice; and direct that whenever applications for the release of prisoners afflicted with blindness be submitted to *the Government*,† the civil surgeon be required to record his opinion as to the origin of the calamity, and to state distinctly, whether from the appearance and nature of the malady, there is any reason to suspect, that it has been designedly produced, or is purely the result of misfortune.

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* The words in italics were not inserted in the Western Court's Circular.

† The Western Court's Circular had "them" instead of "the Government."

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Western Provinces, 13th, and Lower Provinces, 26th December, 1845.

No. 221.

Applications for the release of persons convicted of having committed penal acts while laboring under insanity.

APPLICATIONS for the liberation of persons, convicted of having committed penal acts, while laboring under insanity, and directed to be kept in confinement until their restoration to reason, are frequently received by the Court, unaccompanied by those details of the prisoner's mental variations and progress towards recovery, which alone can enable them to judge whether the party in question can be released without danger to the community.

2. The Court are pleased, therefore, to direct that applications of the nature mentioned shall be invariably accompanied by a medical history of the prisoner's case, from its coming under the notice of the local medical authority, of its peculiar features, together with an account of the patient's mental variations, his improvements, relapses, and final recovery, and a specification of the period during which he may have remained free from any return of the malady, or of symptons denoting its approach, and further, to intimate that, unless this history be in every respect satisfactory and conclusive as to the restoration of the prisoner to a state of sanity likely to be permanent, they will consider themselves bound, for the sake of the public safety, to disallow the application to which it may relate.

3. Magistrates should require the civil surgeon, or other medical officer having charge of the prison or the lunatic asylum, in case of his removal, to put on record a professional history of the nature described respecting each prisoner laboring under mental derangement, in order that the object proposed by this Circular Order, may not be frustrated by mutations of incumbency in the situation of civil surgeon.

TO THE CIVIL AND SESSIONS JUDGES AND MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 9th January, 1846.

No. 222.

Civil officers, countersigning plans and other documents relating to public works, are not responsible for any statements contained in them, but may offer any remarks they consider necessary regarding public works connected with their respective departments, without detaining the papers sent to them.

PURSUANT to the orders of Government of the 17th ultimo, I am directed by the Court to forward to you, for your information, copy of a letter, No. 2207, of the 17th idem, addressed by the Under-Secretary to the Government of Bengal to the Military Board.

From the Government of Bengal to the Military Board, No. 2207, *dated the* 17*th December,* 1845.

It was deemed advisable to invite the opinions of the civil authorities before coming to a final determination in regard to Lieutenant Colonel Garstin's suggestion for amending the existing system of countersignature by civil officers, of plans and other documents relating to public works, and I am now directed by the Deputy Governor of Bengal to state, for the information of your Board, that the majority of the officers so consulted concur in the view expressed in your letter, No. 8243, of the 18th April last, as to the expediency of allowing such officers an opportunity of offering remarks regarding public works connected with their respective departments.

2. Such a check, His Honor doubts not, is useful, especially in regard to works executed at stations seldom visited by the executive engineers. Adverting, however, to the misapprehension so generally prevalent among civil officers in regard to the object of countersignatures (which are deemed by some as implying a tacit approbation or confirmation of the statements contained in the documents to which they are affixed), His Honor desires that the present mode of obtaining such attestations be discontinued, and that a separate heading be introduced in all documents requiring countersignature for the remarks, if any, of civil functionaries, and, when they have none to make, for the simple record of the fact. But whether any observations are recorded by civil officers or not, they will be given to understand distinctly, that no papers are to be unnecessarily detained by them, and, for the purpose of ascertaining upon whom the blame of delay may rest, the executive engineers should be required invariably to note the dates of despatch, and civil officers those of receipt and return.

3. Orders to this effect will be issued to the heads of departments under this Government, and your Board are requested to address corresponding instructions to the executive engineers within the same circle.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE REGULATION AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 9th January, 1846.

No. 223.

I AM directed to forward to you the accompanying revised Persian and Bengalee versions of Clause 1, Section 4, Regulation II. of 1807.

Error in the Persian and Bengalee versions of Regulation II, 1807.

قانون دوم سنه ۱۸۰۷ عیسوي

دفعه چهارم

ضمن اول

هرکس که در حضور حکام عدالت دیواني یا نظامت یا کسي حاکم دیگر که اختیار گرفتن حلف داشته باشد از روی حلف یا حلفنامه نسبت بکدام مراتب مقدمه مرجوعهٔ عدالت دیواني یا نظامت عموماً ونسبت بمراتبیکه در انکشاف حقیقت مقدمه اهم و ضروري است خصوصاً عمداً باظهار دروغ بردازد آن کس برتقدیر ثبوت جرم مرتکب جرم گواهي کذب متصور شده مستحق مستوجب سزاي مذکورهٔ دفعهٔ بالا خواهد گردید فقط

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৪ ধারা।

১ প্রথম প্রকরণ। দেওয়ানী আদালতের কিম্বা ফৌজদারী আদালতের সাহেবদিগের হজূরে কিম্বা সরকারের অন্য যে কোন কার্য্যকারক সাহেবের প্রতি দিব্য করাইবার ভার আছে তাঁহার সাক্ষাতে কেহ কোন দেওয়ানী কিম্বা ফৌজদারী মোকদ্দমার নিষ্পত্তি সম্বন্ধীয় কোন ভারি কথাতে

জানিয়া শুনিয়া সপথের কিম্বা সুকৃতি পত্রের পাঠের অন্যথাচরণ করিয়া মিথ্যা জোবানবন্দি করিয়া দেয় তাহাকে মিথ্যা সাক্ষিদিগের মধ্যে গণা যাইবেক এবং উপরের ধারার লিখিত শাস্তি পাইবার উপযুক্ত হইবেক ইতি।

TO THE MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

No. 224.

Lower Provinces, 9th January, 1846.

Intimating prohibition of the practice of moonsiffs leaving their records at the thannahs.

I AM directed by the Court to transmit to you, for your information, the accompanying copy of a circular, addressed to the civil judges, regarding the custody of the records of the moonsiffs absent from their stations on leave.

Circular to the Civil Judges in the Lower Provinces.

The Court have reason to believe that it is the practice of moonsiffs to deposit their records at the nearest thannahs when they are absent from their stations, during the vacations, or at any other time. As this is an objectionable practice, the Court are pleased to direct that, except at the vacations, moonsiffs, who are about to avail themselves of leave of absence, will leave their records in the custody of their umlah; and that at the vacations, when the umlah are permitted to go to their homes, they will pack up the records in boxes, sealing the boxes in the usual manner, and placing a guard of peons over the cutcherry during their absence.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 225.

Lower and Western Provinces, 13th March, 1846.

Forgery brought to light in the course of judicial proceedings, in the civil and criminal courts, to be dealt with according to

CONSTRUCTIONS Nos. 454, 820 and 1221, and the Circular Order, Nizamut Adawlut, No. 14, dated the 5th December, 1828, having received the re-consideration of the Courts of Sudder Dewanny and Nizamut Adawlut, for the Lower and North-Western Provinces, and being found at variance with other instructions* on

* Construction No. 572, para. 3, Construction No. 704, Circular Order, No. 169, dated 29th May, 1835.

the same subject, which declare preliminary inquiry and commitment, in cases of forgery brought to light in the course of judicial proceedings, to be the peculiar duty of the civil courts, are hereby rescinded.

the rules prescribed in cases of perjury. This rule is not to prevent prosecutions, in the magistrate's court, for forgery, irrespective of judicial proceedings.

2. In such cases, it will be no longer optional with the civil courts, as implied in the several Constructions and the Circular Orders hereby revoked, either to commit the accused for trial before a special sessions, or to direct a prosecution for forgery, or to declare the party aggrieved by such forgery, at liberty to institute a prosecution in the criminal court, as to them may seem fitting; but it will be incumbent on those courts, in all cases of forgery brought to light in the course of judicial proceedings, to conform strictly to the rules prescribed for adoption in cases of perjury by Section 2, Regulation III. of 1801, by Section 3, Regulation VII. of 1813, Section 14, Regulation IV. of 1793, (corresponding with Section 8, Regulation III. of 1803,) and Section 14, Regulation XVII. of 1817.

3. The same rule is to be considered applicable, *mutatis mutandis*, to cases of forgery, brought to light in the course of judicial proceedings in a criminal court.

4. These instructions are not intended to exclude from the cognizance of the magisterial authorities criminal prosecutions for forgery, which may be instituted irrespectively of proceedings in any civil or criminal court.

NOTE.—See Act I. 1848.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 1st May, 1846. No. 226.

THE Court circulate the subjoined amendment of an error in the Persian and Bengalee versions of Clause 1, Section 24, Regulation XX. 1817.

Error in the Persian and Bengalee versions of Reg. XX. 1817.

قانون بستم سنه ۱۸۱۷ عیسوي

دفعه چوبیسوین ضمن اول

غلط	صحیح
یک قطعه سمن مثبته بدستخط	یک قطعه سمن مثبته بدستخط
خود و مهرتهانه معرفت برقنداز	خود و مهر تهانه معرفت برقنداز
یا مختار کار معروف مدعی بر	یا مختار کار معروف مدعی علیه
مدعی علیه جاري نمایند الخ	بر مدعی علیه جاري نمایند الخ

ইঙ্গরেজি ১৮১৭ সালের ২০ বিংশ আইন—
২৪ ধারা ১ প্রথম প্রকরণ —

অশুদ্ধ।	শুদ্ধ।
আপন দস্তখৎ ও থানার	আপন দস্তখৎ ও থানার
মহরযুক্তে এক সমন বরক-	মহরযুক্তে এক সমন বরক-
ন্দাজের মারফতে কিম্বা ফরি-	ন্দাজের মারফতে কিম্বা আ-
য়াদির পরিচিত মোক্তারকার	সামির পরিচিত মোক্তারকার
হাজির থাকিলেও কোন	হাজির থাকিলেও কোন ও-
ওজর না করিয়া সমন লইলে	জর না করিয়া সমন লইলে
তাহার মারফতে আসামির	তাহার মারফতে আসামির
উপরে পাঠায় ইত্যাদি।	উপরে পাঠায় ইত্যাদি।

TO THE SESSIONS JUDGES IN THE NORTH-WESTERN PROVINCES, AND SAUGOR AND NERBUDDA TERRITORIES.

No. 227. *Western Provinces, 2nd May,* 1846.

Construction 959 to be deemed to have currency in the Lower Provinces only.

THE Court of Nizamut Adawlut for the North-Western Provinces hereby notify, that Construction No. 959, which rules that the power of a sessions judge to fine is unrestricted as to amount, having been issued without the concurrence of this Court, must be considered to have operation and effect in the Lower Provinces only.

TO THE SESSIONS JUDGES IN THE NORTH-WESTERN PROVINCES, SAUGOR AND NERBUDDA TERRITORIES, AND COMMISSIONER OF KUMAON.

No. 228. *Western Provinces, 16th May,* 1846.

The names of those only in regard to whom a trial is referred.

THE Court desire that sessions judges, in referring trials for the final orders of the Nizamut Adawlut, will insert in the marginal note, prescribed by the 10th paragraph of Circular Order, Nizamut

Adawlut, No. 54, dated 16th July, 1830, the names of those prisoners only in regard to whom the reference is made; the inclusion of others, who have either died or escaped prior to the termination of the trial, or been acquitted or sentenced by the sessions judge, being calculated only to create confusion and mislead without being productive of any corresponding benefit.

red, are to be mentioned in the letter of reference; and no papers are to be sent which relate exclusively to those who are acquitted, &c.

2. It will be unnecessary, under the operation of this rule, to submit transcripts of such portions of the record as may relate exclusively to the prisoners in regard to whom the trial, for whatever reason, may not be referred to the Nizamut Adawlut, such, for instance, as the defence of such prisoners, or the deposition of witnesses called on their behalf.

TO THE SESSIONS JUDGES AND COMMISSIONERS IN THE LOWER PROVINCES.

Lower Provinces, 22nd May, 1846.

No. 229.

Circular No. 130, 24th February, 1843, superseded. But sessions judges to record their reasons for recommending imprisonment for life not in transportation.

THE Court are pleased to intimate that the rule prescribed by Circular Order, No. 130, dated 24th February, 1843, that the sessions judges shall invariably recommend that a prisoner be sentenced to transportation for life instead of imprisonment for life, is no longer required to be observed, in consequence of the enactment of Act XIV. of 1844, which authorises a single judge of the Sudder Court to pass sentence of transportation beyond sea for life, against a prisoner recommended to be imprisoned for life. They however direct that the sessions judges, when proposing a sentence of imprisonment for life in the Allipore jail, record their reasons for not recommending one of transportation beyond sea.

TO THE SESSIONS JUDGES IN THE LOWER AND THE AUTHORITIES IN THE EXTRA-REGULATION PROVINCES.

Lower Provinces, 12th June, 1846.

No. 230.

The names of witnesses not named in the magistrate's calendar, to be entered therein by sessions judges in trials referred or called for.

THE Court request that an entry be made, in the copy of the English calendar, which, under the Circular Order, No. 187, 25th October, 1844, is sent with all trials referred or called for, of the names of all witnesses not named in the magistrate's calendar, whom the sessions court may have thought proper to summon and examine.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 281.

Lower and Western Provinces, 12th June, 1846.

Explanatory of the nature of the assistance to be rendered to the sheriff's officers charged with writs of capias.

PURSUANT to the orders of Government, the Court publish, for the information of the criminal authorities, the accompanying copy of a correspondence regarding the nature of the assistance which magistrates are expected to afford sheriff's officers, entrusted with the execution of writs of capias issued by the Supreme Court against parties residing in the mofussil.

From A. Campbell, Esq., Magistrate of Darjeeling, to F. J. Halliday, Esq., Secretary to Government of Bengal, Fort William.

Dated Darjeeling, the 29th April, 1846.

SIR,—I have the honor to request that you will procure for me the opinion of the Advocate General on my proceedings as noted in the margin, and such opinion as may guide me in deciding on any further steps that may be taken before me in the matter by the sheriff's bailiff, either with or without a "writ of assistance," or other process issued by the Supreme Court.

Letter of sheriff's officer, dated 27th April, with order thereon.
Letter of ditto, dated 28th, with order thereon of the 29th.

2. I have grounded my proceedings, in the absence of any sanction in the Regulations to compliance with the sheriff's officer's requisitions, on decisions of the Sudder Courts noted underneath.

1. Construction No. 765, dated March 8th, 1833.
2. ———— No. 800, dated 21st June, 1833.
3. ———— No. 636, dated 20th May, 1831.

I have, &c.,
(Signed) A. CAMPBELL,
Magistrate.

A. Campbell, Esq., Magistrate of Darjeeling.

SIR,—I have to request you will give me a posse of your police force to assist and protect me in the execution of my duty, in conveying ———— under civil arrest to Calcutta.

I have, &c.,
(Signed) W. GRANT,
Sheriff's Officer.

DARJEELING,
27th April, 1846.

If the sheriff's officer desires protection, he must make affidavit to his belief that such is requisite. Assistance in the conveyance of a prisoner under civil arrest is not directed by the Regulations.

Order.

(Signed) A. CAMPBELL,
Magistrate.

DARJEELING,
28*th April*, 1846.

A. Campbell, Esq., Magistrate of Darjeeling.

SIR,—I am in receipt of your order passed upon my letter of yesterday's date, requesting the assistance and protection of your police force in the execution of my duty in conveying ——— under civil arrest to Calcutta.

I have the honor to observe that I consider it necessary to call upon you for a police force to protect and assist me in the execution of my duty in conveying ——— under civil arrest to Calcutta, on account of the position I stand in with ———, he having threatened to break every bone in my body if I went over to his house.

If you require an affidavit to the facts, I am ready (at any time you think proper) to give it.

I request the favor of your reply, and respectfully beg to call your attention to the sheriff's official letter of the 5th ultimo.

I have, &c.,

(Signed) W. GRANT,
Sheriff's Officer.

DARJEELING,
28*th April*, 1846.

Sworn to before me this twenty-ninth day of April, one thousand eight hundred and forty-six.

(Signed) A. CAMPBELL,
J. P. and Magistrate.

DARJEELING,
29*th April*, 1846.

Order on the letter of Mr. Grant, Sheriff's Officer, dated Darjeeling, 28th April, 1846.

The magistrate does not consider the sheriff's letter to his address of the 5th March, tantamount to a "writ of assistance," issued by the Supreme Court: he will not afford protection to the sheriff's officer in the invasion of premises; and the Regulations do not authorise him to assist at all in conveying a prisoner under civil arrest to the sheriff.

(Signed) A. CAMPBELL,
Magistrate.

DARJEELING,
29th April, 1846.

To T. B. Swinhoe, Esq., Solicitor to the Hon'ble East India Company.

SIR,—I am directed by the Hon'ble the Deputy Governor of Bengal to transmit in original the accompanying letter, No. 84, of the 29th ultimo, with enclosures, from the superintendent of Darjeeling, and to request that you will obtain the opinion of the Advocate General on the case therein alluded to.

Judicial.

2. It is requested that the original enclosures may be returned with your reply.

I am, &c.,
(Signed) A. TURNBULL,
Under-Secretary to the Government of Bengal.

FORT WILLIAM,
The 13th May, 1846.

OPINION.

Mr. Campbell seems to labor under considerable misapprehension as to the authority under which the sheriff's officer is acting.

The sheriff's letter is little more than an act of courtesy, important only as conveying notice to the magistrate that his assistance may be required.

The authority under which the sheriff, or his bailiff in his place, is acting, is a writ of capias issued out of the Supreme Court on its common law side, directed to the sheriff and commanding him to seize the body of ———, and to have it at a certain time and place before the Court, &c.

A writ of assistance, the execution of which the magistrate seems to admit he would be bound to aid, is a writ issuing out of the

Supreme Court on its equity side directed also to the sheriff, and commanding him to put a certain person into the possession of certain premises.

It seems to me that a magistrate in the mofussil is bound to aid the due execution of the former writ, upon precisely the same principle as that on which he is bound to assist in the execution of the latter. The only difference between them in respect of authority is, that whereas doubts may have existed heretofore as to the power of the Court to decree possession of lands in the mofussil, none has ever existed as to its power to take, either on mesne process, or in execution, the bodies of British subjects within the local limits of its jurisdiction.

Now upon referring to Mr. Advocate General Pearson's letter of the 21st of July, 1820, which appears to have been ever since very properly acted upon, (see Circular Orders of the Sudder Dewanny Adawlut, vol. II. No. 31, and Constructions by the Sudder Dewanny Adawlut and Nizamut Adawlut, vol. II. No. 636, the last being one of the authorities referred to by Mr. Campbell,) it will be found that the obligation of the mofussil authorities to lend their aid to the execution of a writ of assistance does not depend upon the peculiar nature or terms of that writ, but upon the force of the 39th section of the Charter of Justice, and the analogy between the power of the sheriff to call for assistance under that section, and the power of a sheriff in England to call upon the *posse comitatus.*

Applying that principle to the present case, it seems to follow that whereas in England the sheriff, where assistance is required, is, in the execution of a *capias ad satisfaciendum, bound,* and is, in the execution of a *capias ad respondendum, at liberty* to call upon the *posse comitatus,* so here if he has occasion to call upon the magistrate for assistance, the magistrate ought to render it.

That assistance ought of course to be confined to the legal execution of the writ; for instance, the police officers furnished by the magistrate ought not to aid the bailiff in breaking into a house, but they accompany him if he enter the premises without breaking in, and ought to prevent any breach of the peace when the arrest is made, or rescue after it has been made.

I do not see that the obligation upon the magistrate extends so far as to make it necessary for him to furnish men to assist in the conveyance of the prisoner to Calcutta.

(Signed) JAS. WM. COLVILE.

May 15th, 1846.

(A True Copy,)

(Signed) T. B. SWINHOE,
Solicitor to the East India Company.

To A. Campbell, Esq., Superintendent of Darjeeling.

Judicial.

SIR,—I am directed by the Hon'ble the Deputy Governor of Bengal to acknowledge the receipt of your letter, No. 84, of the 29th ultimo, with enclosures, and in reply to transmit, for your information and guidance, the accompanying copy of the Advocate General's opinion on the points therein referred.

I have, &c.,

(Signed) A. TURNBULL,
Under-Secretary to the Government of Bengal.

FORT WILLIAM,
The 20th May, 1846.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower and Western Provinces, 10th July, 1846.

No. 232.

Explanatory of the nature of the assistance to be rendered to the sheriff's officers charged with writs of *capias*.

PURSUANT to the orders of Government, the Court publish, for the information of the criminal authorities, the accompanying copy of the Advocate General's further opinion on the subject of their Circular Order, No. 8, of the 12th ultimo, *viz.* the nature of the assistance which magistrates are expected to afford the sheriff's officers entrusted with the execution of writs of *capias* issued by the Supreme Court against parties residing in the mofussil.

OPINION.

My observations regarding Mr. Campbell's supposed misapprehension of the sheriff's officer's authority had reference to Mr. C.'s proposition (which distinctly appeared in the papers before me) that he was not bound to give the aid required because the writ was not a *writ of assistance*. It therefore seemed to be not wholly beside the question to show that, if the magistrate were bound to assist in the execution of the one writ, he was, by parity of reasoning, equally bound to assist in the execution of the other.

It now appears, though to the best of my recollection it did not appear from the former case, that the arrest has been effected, and, since no escape or rescue is mentioned, I conclude that the prisoner is still in custody. The simple question referred to me seems to be, is, under these circumstances, the magistrate to grant to the sheriff's officer, who is under apprehension of violence, a *posse* to assist in the conveyance of the prisoner to Calcutta? Mr. Campbell says that the

two last paragraphs of my former opinion *preclude* him from complying with the bailiff's requisition. I do not think they go quite so far as that: the last but one would rather imply the contrary, for the writ cannot be said to be fully *executed* until the prisoner is conveyed to Calcutta. The last states only that " in my opinion the magistrate is not *bound* to furnish men to assist," &c., not that he would act *illegally* in doing so. By the opinion expressed in that paragraph, I abide, for the following reasons.

The obligation on the mofussil magistrates to assist in the execution of process issuing out of the Supreme Court, whether it be a perfect or an imperfect obligation, seems to arise out of the last clause in the Charter of Justice, which contains substantially the same injunction as that contained in the patent of assistance granted to sheriffs in England, and in which their power to raise the *posse comitatus* is supposed to be implied (see Dalton's Office of Sheriff, pp. 5 and 8.) Now, according to the unanimous opinion of the judges, as delivered to the House of Lords in *Miller versus Knox*, 4 *Bing. N. C.* 574, the sheriff has power, even though there be only a show of intended resistance, to call upon such persons as are of proper age, *and fit and able to travel*, and especially ministerial officers, as constables, and the like, to assist him in the execution of the writ within the county, and such persons are punishable if they refuse to assist. It seems, however, very questionable whether this can be said to be the law of this country. In England the jurisdiction of the sheriff, and consequently the liability of those who are called upon to assist, is confined to the bounds of a county. Here the writs, which the sheriff of Calcutta executes, run through the whole of the vast province of Bengal, and it seems preposterous to contend that, in the absence of any express enactment and by the mere force of analogy, an individual at Delhi may be compelled to assist a sheriff's officer in the transport of a prisoner to Calcutta. Again, I am not aware that the obligation resulting or supposed to result from the last clause of the Charter has ever been enforced, or could be enforced by indictment or information, as the obligation to assist the sheriff might be enforced in England. Its performance therefore seems to depend mainly upon the instructions to be given by the Government to its magistrates and other subordinate officers; and though it would certainly not be very creditable to the Government of any country to permit the process of a competent court to be successfully defied, yet it seems rather too much to say that the Government is to undertake the expense of escorting persons taken on civil process from one end of the province to the other, or, supposing it indemnified against the expense, that it is to denude for such purposes a district of its requisite police force.

In the particular case in question, there seems to be no apprehension of a forcible rescue by numbers, but a mere apprehension of violence on part of the prisoner. I confess, I cannot see why, in such a case, the bailiff should not take steps before the nearest

justice of peace to have his prisoner bound over in heavy penalties to keep the peace towards him, or why he should not himself hire a sufficient number of fellows to prevent the escape of one man, however powerful and violent he may be.

I therefore repeat my opinion, that the magistrate is not bound to furnish a *posse* of men to assist in the conveyance of the prisoner, but I cannot think that he would incur any *legal* responsibility in so doing, should he think that there is any thing in the special circumstances of the case which requires such extraordinary assistance; and if I were to venture to lay down any general rule of conduct for the guidance of magistrates in such cases, it would be this, that, when required so to do, they take such measures as may be necessary to insure the peaceable execution of legal process within the limits of their own district or local jurisdiction, not travelling beyond it. Such a rule, if applied to the present case, would induce Mr. Campbell to provide for the peaceable removal of ——— from Darjeeling, but not for his transport to Calcutta. I have given my opinion at this length, because, from all I can learn, the case, in all its circumstances, is a novel one.

(Signed) JAMES WM. COLVILE.

June 16th, 1846.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

No. 232. *Lower and Western Provinces, 28th August*, 1846.

Form of writ under Act XXIII. 1840.

THE Court are pleased to prescribe the following form of writ, for the attachment of movable or immovable property of persons, charged with criminal offences, who have absconded, to be used under Act XXIII. 1840,—the words "land or other immovable property" being employed when the attachment has reference to the rule in Clause 4, Section 26, Regulation XX. 1817, and the words "goods, effects, or other property," when it has reference to Clause 6 of that section.

No. 11.

WRIT FOR ATTACHMENT OF PROPERTY OF PERSONS CHARGED WITH CRIMINAL OFFENCES, WHO HAVE ABSCONDED.

To Mohummud Ally, Nazir of the Fouzdarry Court of Zillah Hooghly.

Whereas a warrant was issued on the for the apprehension of Ramdhun Bose, inhabitant of Byedbatty, to answer to a charge of and afterwards a proclamation was made, in conformity to Section 4, Regulation XI. 1796, for the

appearance of the said Ramdhun Bose; and whereas the said Ramdhun Bose has failed to make his appearance within the time limited in the said proclamation, you are therefore hereby authorised and commanded to attach and sequestrate any (land or other immovable property) (goods, and effects, or other property) belonging to or possessed by the said Ramdhun Bose, and to hold the same under attachment and sequestration until otherwise commanded.

Dated the 15th day of August, 1846.

A. B.,
Magistrate.

L. S.

TO THE SESSIONS JUDGES, MAGISTRATES, AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 30th October, 1846. No. 234.

Rules to be observed by magistrates in committing, and sessions judges in trying persons whose commitment has been necessitated by their implication with others in offences which the magistrates are not competent to try.

WITH reference to the Constructions, noted in the margin, which communicate that, whenever the commitment of one prisoner may be requisite under the Regulations, all others implicated in the same offence should likewise be committed, the Nizamut Adawlut direct that, if such a circumstance induce commitment, the same shall be stated by the magistrates, and officers exercising the powers of magistrates, as other circumstances, necessitating commitment in cases otherwise within the magistrate's competence to pass sentence, are required to be stated by their Circular Order, No. 239, dated 1st September, 1820.

No. 379, dated 8th April, 1825.
No. 622, dated 28th January, 1831.

2. In the case of a party, whom, but for the commitment of his accomplices, the magistrate could have sentenced, the Court observe that the sessions judges should refrain from awarding to him a greater measure of punishment than the magistrate has authority to impose for offences of the kind.

3. The sessions judges must, for this purpose, be careful that the magistrates duly note the reason for commitment in their roobukarees; and they must themselves show in their remarks under what circumstances the sentence recorded has been adjudged.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 235. *Lower and Western Provinces, 13th November,* 1846.

In modification of Circular Order, No. 1, vol. III, declares convicts sentenced to labour in irons punishable with stripes for offences, such as those enumerated in Section 5, Regulation XIV. 1816, as being opposed to the maintenance of jail discipline.

THE Courts of Nizamut Adawlut, for the Lower and North-Western Provinces, having re-considered their Circular Order, No. 1, dated Lower Provinces, 15th September, and Western Provinces, 10th November, 1837, are agreed, that it needs amendment, giving too restricted a meaning to the provisions of Section 6, Regulation II. of 1834. The Courts are of opinion that all offences which are opposed to the maintenance of discipline in the public jails, are, when committed by "convicts sentenced to labour in irons," punishable with stripes under the law cited, and they are pleased accordingly to declare that the exception, enacted in the said Section 6, Regulation II. of 1834, shall be held to extend to the several offences enumerated in Section 5, Regulation XIV. of 1816, as opposed to the maintenance of "good order and discipline" in the jails, whenever such offences may be established against "convicts sentenced to labour in irons."

2. The Court desire it, however, to be borne in mind, that "corporal punishment" must be "moderate," and that it should be inflicted only when it is thought to be "unavoidable for the maintenance of the discipline of the jails."

VOL IV.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 26th February, 1847. No. 2.

Instructions as to examination of witnesses for the defence.

THE Court, having observed certain irregularities in the mode of taking down the depositions of witnesses for the defence, deem it proper to call the attention of the criminal authorities to the subject. They observe that witnesses for the defence, like other witnesses, should be examined on the points to which they are summoned to testify, and cross-examined regarding statements made by them in answer to the prisoner's questions, if their statements appear to require it, and their personal knowledge of the circumstances which they are cited to prove, closely scrutinized.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 27th February, 1847. No. 3.

Act III. 1844, held to be inapplicable to attempts to commit theft.

THE opinion of the Court as to the applicability of Act III. 1844, to persons, convicted of attempting to commit theft, having been more than once solicited, it is thought advisable to notify that attempts to commit theft do not fall under the provisions of that enactment. The liability of a convicted offender to corporal punishment is determinable by the estimated value of the property proved to have been stolen: and as in cases of attempt it would be impossible to define, within any given limits, the value of the property that might have been stolen, had the attempt been successful, the law, it is clear, cannot in such cases be enforced. Further, the Court observe that, had it been the intention of the legislature to bring attempts to commit theft within the compass of the Act, the more

precise phraseology which is used in Regulation XII. 1818, for instance, and which places attempts to commit in the same category with thefts actually perpetrated, would have been employed.

2. The Calcutta Court have expressed their concurrence in this construction of the law.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 4.

Lower and Western Provinces, 12th March, 1847.

Civil judges making commitments, are to draw up the charge.

THE Court are pleased to direct that the separate paper containing the charges in the English and vernacular, prescribed by paragraph 16 of the Circular Order of the Nizamut Adawlut, No. 54, 16th July, 1830, be drawn up and signed by the judge who may make a commitment for perjury or forgery brought to light in the course of any civil proceeding.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 5.

Lower and Western Provinces, 31st March, 1847.

Private watchmen declared to be within the meaning of the rule in Clause 2, Section 2, Regulation XII. 1818.

DOUBTS having been entertained as to whether the implication of a *private* chowkeedar or watchman in a burglary, renders his commitment to the sessions court compulsory under the provisions of Clause 2, Section 2, Regulation XII. 1818, the Court are pleased to direct the attention of the criminal authorities to the terms of Clause 6, Section 11, Regulation XIV. of 1807, and Clause 9, Section 21, Regulation XX. of 1817, which declare that "private watchmen, entertained by individuals for guarding their houses, shops, or other premises," within the towns or villages where the darogahs of police or officers of outposts may be stationed, and within the cutwallee jurisdiction, shall be considered subject to the orders of the police officers, and are required to act in concert with them.

2. The provisions, however, of Clause 6, Section 11, Regulation XIV. 1807, being declared by Clause 4, Section 12, of the same Regulation applicable to "private watchmen, entertained by individuals for guarding their houses, &c., within the towns, gunjes, or other places forming part of any mofussil police jurisdiction," it follows that private watchmen, of whatever denomination and by whomsoever entertained, are "required by the Regulations to assist the police officers in preventing robbery or other crimes and appre-

hending offenders," and that being thus in the same category with the chowkeedars and others, described in Section 4, Regulation III. 1805, they come within the intent and meaning of the rule contained in Clause 2, Section 2, Regulation XII. 1818.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 17th May, 1847. No. 6.

Mode of proceeding on the absconding of a party charged with forgery brought to light in the course of civil judicial proceedings.

THE Court, anticipating that prosecutions for forgery brought to light in the course of civil judicial proceedings, may become more frequent, as the expediency of using every lawful means for the suppression of that offence becomes more obvious, think it useful to notify that the provisions of Section 4, Regulation III. 1804, have been held by both Courts of Nizamut Adawlut to be capable of enforcement by the civil judges against any party who may abscond, being at the time under a charge of forgery brought to light in the course of civil judicial proceedings. It will be the duty of the civil judge, in such cases, to call upon the magistrate of the district to perform the acts described in Section 4, Regulation III. 1804, and the corresponding Section of Regulation XX. 1817, with a view to the apprehension of the absconding party; and it will be incumbent on the magistrate to obey such requisitions, and to proceed as he would do were the absconding party in question charged with a criminal offence primarily cognizable in his court. The principle set forth in the 3rd paragraph of Construction No. 648, is declared applicable to attachment of property directed to be made under the sanction of the law above cited and these instructions.

TO THE SESSION JUDGES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 21st May, 1847. No. 7.

Assistants with special powers competent to dispose of cases under Regulation VII. 1819.

THE Courts of Nizamut Adawlut for the Lower and Western Provinces notify, for general information, that it has been ruled by them that assistants with special powers are competent to dispose of cases under Regulation VII. 1819.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 8. *Lower and Western Provinces, 7th June,* 1847.

Observations on the terms accessary, accomplice, and privity, with the corresponding terms in the vernacular.

THE Court, finding that the Circular Order, dated 21st August last,* has misled the criminal authorities, and induced the belief that the being "accessary" and the being "privy" to a felony are intended by the Court to be regarded as similar offences, are pleased to rescind it.

2. The Court desire, before prescribing the use of any corresponding terms in the vernacular, to observe that the act which constitutes what is called "privity" in this country corresponds with "misprison of felony" in English law, *viz.*, the concealment or the procuring the concealment of a felony which a man knows but never assented to, or the observing silently the commission of a felony without using any endeavors to apprehend the offender; it is, therefore, strictly an offence of a negative kind, consisting in the concealment of something that ought to be revealed. Accessaryship, on the other hand, is an offence of a positive kind, and of a higher degree of criminality, implying an active participation, either by procuring, counselling, commanding, or abetting another to commit a felony, or, with a knowledge that a felony has been committed by another, by receiving, relieving, comforting, or assisting the felon. The distinction between the two offences is marked: the one is a misdemeanor in English law, the other is a felony: the one is in its kind negative, requiring nothing but silent, passive acquiescence in the commission of a felony to constitute it; the other is a positive participation in the commission of a felony, either by counsel and command before the fact, or by relief and assistance given to the felon after the fact.

3. It is therefore necessary that these offences should be represented by different terms in the vernacular language; but there is some difficulty in doing this, because accessaryship, as contradistinguished from complicity on the one hand, and from privity on the other, not being recognized by the Mahomedan law, there is no *one* word in the Arabic or Persian language by which it can be appropriately rendered: still, the Court think, the distinction will be sufficiently marked if, in selecting corresponding terms in the vernacular, regard be had to the fact that, as either the constructive or actual *presence* of the accused at the time when the crime is committed, is necessary to constitute *complicity* on his part, so the *absence* of the accused is essential to the charge of being an "accessary;" or, in other words, he who is present, aiding, and

* Omitted. For reasons, See Appendix.

abetting in the commission of a felony, may be an accomplice, or a principal, but he cannot, in the legal sense of the words, be either accessary or privy to its commission. The following terms are therefore prescribed for general use, in translating the charges referred to:

Accomplice will be rendered by the words شریك بوقت وقوع جرم (সঙ্গী.) Accessary before or after the fact, or before and after the fact, as the case may be, will be rendered by the words شریک ماقبل وقوع جرم (অপরাধের পূর্ব্ব সহকারি) or شریک ما بعد وقوع جرم (অপরাধের পর সহকারি) or شریک ماقبل اورمابعد وقوع جرم (অপরাধের পূর্ব্ব ও পর সহকারি.)

"Privity" will be rendered by the word رازداري (জ্ঞাতসারিতা.)

To express "aiding and abetting" the term اعانت (সহায়তা) should be employed.

4. It only remains for the Court to remark that, accessaries before and after the fact being felons in consideration of law, the privilege of commuting labour to a fine should not be extended to them, as to those who may be convicted of "privity," which is misdemeanor only.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 25th June, and Western Provinces, 10th August, 1847.

No. 9.

Police officers how to report on wounds of wounded or deceased persons.

THE direction in Clause 5, Section 14, Regulation XX. 1817, to ascertain the length, breadth, and depth of wounds on the bodies of wounded or deceased persons, having been considered to authorise police officers to probe wounds, the Court are pleased to prohibit the practice, and to intimate that police officers are expected to report merely from inspection, the apparent length, breadth, and depth of wounds.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 10. *Lower and Western Provinces, 23rd July, 1847.*

Forms of charges of perjury.

THE Court, having noticed instances in which charges of perjury have not been drawn up with due precision, are pleased to prescribe the following forms for use *mutatis mutandis*:—

'Perjury, in having, on the 1st May, 1847, deposed, under a solemn declaration taken instead of an oath, before the of , that (here enter the false statement in which the perjury consists) such deposition being false, and having been intentionally and deliberately made on a point material to the issue of the case.'

'Perjury, in having, on the 1st January, 1847, intentionally and deliberately deposed, under a solemn declaration taken instead of an oath, before the of , that (here enter the first statement) and in having on the 13th February, 1847, again intentionally and deliberately deposed, under a solemn declaration taken instead of an oath, before the said (or any other court) that (here enter the second statement) such statements being contradictory of each other, on a point material to the issue of the case.'

2. The second form, which is a modification of that of the Circular Order No. 126, Lower Provinces, 18th June, and Western Provinces, 23rd July, 1841, is to be used in cases of statements directly at variance with each other. The first form is to be used in other cases of perjury.

TO THE SESSIONS JUDGES AND MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

No. 11. *Lower Provinces, 17th September, 1847.*

Applications to invest assistants with special and other powers to be made direct to the Government.

WITH the sanction of the Government, the Court are pleased to enjoin that applications made to sessions judges, by magistrates and joint magistrates, with a view to their assistance being invested with special powers or the powers of a joint magistrate, be submitted by the sessions judges to the Government direct.

TO THE CIVIL AND SESSIONS JUDGES, AND THE MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER AND WESTERN PROVINCES, AND THE AUTHORITIES IN THE EXTRA-REGULATION PROVINCES.

Lower Provinces, 12th May, and Western Provinces, 30th June, 1848.

No. 12.

Course to be pursued on the institution of actions against the officers of Government for acts done by them in their public capacity.

THE following orders of Government are published, by authority, for the information of officers of the Government, as to the course to be pursued on the institution of actions against them for acts done by them in their public capacity.

Letter from the Secretary to the Government of Bengal, to the Superintendent of Police, Lower Provinces, under date the 12th April, 1848.

I am directed by the Right Honorable the Governor General to acknowledge the receipt of your letter No. 583, of the 17th ultimo, in which you draw His Lordship's attention to the position in which magistrates and other officers of Government are placed, when actions are brought against them in courts of law for acts done in the discharge of their official duties, in consequence of the system at present pursued of leaving them to defend themselves at their own expense in every case, and only reimbursing them after the conclusion of the trial, if from the facts then developed it should appear that they had conducted themselves legally and properly in the matters which occasioned the action.

2. After carefully considering the subject, His Lordship has come to the conclusion that it will be right that the officers of Government so situated, should be relieved from the necessity, which must often press heavily upon their means, of advancing the funds required for defending themselves against actions which may often be prompted by malice or litigiousness.

3. With this view His Lordship has determined, as the course to be pursued in such cases in future, that on the institution of any action against an officer of the Government for acts done in the discharge of his public duty, he should communicate the fact through the usual official channel, reporting all circumstances which may be necessary to enable the Government to arrive at a decision on the real merits of the case. If, on full examination into the case, and on a fair and reasonable interpretation of his proceedings, the officer shall appear to have acted rightly, he will be directed to take the necessary steps to defend himself, the Government advancing the funds necessary for that purpose, to be refunded after the issue of the action is known, in case the circumstances then brought to light should prove the officer to have acted improperly. If, on the other

hand, upon examination of his case by the Government his conduct shall appear to have been clearly wrong, he will be informed that the Government will not interfere, and that he must defend himself at his own charge.

4. Under such a rule as this, His Lordship conceives that public officers will not be led to feel that they can fall back on the Government for defence in every case, whether their conduct may have been right or wrong. They will be sensible that they can look for assistance only when they may appear to have entirely deserved it, and therefore their sense of responsibility will remain as keen as heretofore.

5. Regarding the case which gave rise to your communication, His Lordship has been informed that the action against that officer has been nonsuited.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 13. *Lower and Western Provinces, 5th June,* 1848.

Definition of arson. Other acts of incendiarism may be disposed of by the magistrates or committed to the sessions. The special circumstances to be mentioned in the roobukaree of commitment.

ALTHOUGH the offence of arson, as defined in the Regulations,* is restricted to the setting on fire a house or other building, village, or town, it has been, the Court believe, a general practice with the magistrates to commit for trial to the sessions courts all persons charged with incendiarism, whatever may have been the property destroyed by such incendiarism or the circumstances by which the act may have been distinguished.

Cases in which sentence awardable by the sessions courts is insufficent, are referrible to the Nizamut Adawlut.

2. After a full consideration of the subject and a reference to the terms of the law, it has been ruled by the Courts of Nizamut Adawlut for the Lower and North-Western Provinces that the wilfully and maliciously setting fire to any 'village,' 'town,' 'house,' or other 'building,' constitutes the crime of 'arson,' which is punishable only by the sessions court, and that this definition includes the malicious and wilful burning of a boat laden with men or merchandize, and of a tent or other place used, for the time being, as a dwelling.

3. Acts of incendiarism other than the above do not, the Courts consider, fall within the definition of arson found in the Regulations; and the criminality of such acts will vary very much according to the presumed motives of the incendiary, the effect of his act, either actual or probable, and generally the circumstances which distinguish it. But there is nothing in the Regulations which precludes a magistrate

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* Regulation VI. 1803, Section 7; Regulation III. 1804, Section 7; Regulation IX. 1807, Section 3, Clause 1.

from disposing finally of such cases, provided he consider the punishment which he is competent to award under Section 19, Regulation IX. 1807, adequate to the offence proved. The magistrates will be pleased to act in future according to this view of the law, bearing in mind that if, by any act of 'incendiarism' not coming within the above definition of 'arson,' lives should be endangered or valuable property destroyed, or if the act should be accompanied by other aggravation, they are at liberty to exercise their discretion in committing the accused to the sessions court. In such cases, however, the magistrates are required to state, specially, in the calendar or roobukaree of commitment, their reasons for making over the prisoners to the sessions court, in preference to passing sentence themselves; and any commitment of this kind, for which such special reason may not be assigned, will be liable to cancelment.

4. Those cases in which the sentence sanctioned by Clause 7, Section II., Regulation LIII. 1803, may be considered insufficient, will be referred by the sessions judges for the final orders of the Nizamut Adawlut under Section 6, Act XXXI. 1841.

TO THE SESSIONS JUDGES AND MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 9th June, 1848.

No. 14.

Grounds of apprehension of prisoners to be inserted in the calendar.

THE Court of Nizamut Adawlut have observed, in the revision of criminal trials, that the grounds which have led to the apprehension of the prisoners can rarely be gathered from the proceedings, although a knowledge of these grounds is in many cases essential to enable the Court to come to a correct conclusion as to the guilt or innocence of the accused. They therefore direct the magistrates and other committing officers to state, in the calendar, the circumstances which first induced suspicion to attach to the prisoners, and ultimately caused their apprehension on the charge of committing the offence for which they have been put on their trial.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 16.

Western Provinces, 22nd July, 1848.

Renderings in the vernacular of "arson" and "incendiarism."

THE word "sokhtugee," it is thought, is not a proper equivalent for "incendiarism;" and the use of the terms آتش زني شديد and آتش زني خفيف to represent "arson" and "incendiarism" respectively, is recommended.

TO THE CIVIL AND SESSIONS JUDGES IN THE LOWER PROVINCES AND THE COMMISSIONERS IN THE EXTRA-REGULATION PROVINCES.

Lower Provinces, 20th October, 1848.

No. 17.

Correspondence on matters of form or of minor importance, not to be accompanied by originals or copies of the successive references made by subordinate officers.

IN consequence of instructions received from the Government of Bengal to reduce as much as possible the bulk of public correspondence, I am directed by the Court to request that, in cases of minor importance, and certainly in all cases where the mere report of an occurrence or solicitation of formal sanction is made, the reference should not be, as is generally the case at present, by the transmission of several enclosures, being the originals or copies of each reference from the several subordinate officers in succession, but by a single letter or endorsement, and this rule should be applied whenever it may be practicable. In cases which involve an important principle, or which may be intricate in their details, and which may have produced elaborate discussions, which cannot be rightly conveyed by any abbreviation, it will of course be proper that the mass of the papers should be forwarded, but this should be always avoided when practicable.

TO THE MAGISTRATES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 27th November, 1848.

No. 18.

Instructions regarding executions.

THE Court have recently observed one or two instances, in which, according to the certificate endorsed on the sessions judge's warrant, the execution of capital sentences has been rendered revolting and cruel by undue haste or carelessness on the part of those charged with the duty, in taking down the body before life was extinct, and

the consequent necessity of again suspending it, or resorting to other means for the causing of death. They are pleased accordingly to direct that, on future occasions, the body shall invariably be allowed to remain suspended for one hour at least, and that it shall not even then be removed until death shall be certified to have occurred by an officer of the medical department, who should always be required to attend, for that purpose, in every instance of the execution of a capital sentence.

TO THE MAGISTRATES AND JOINT-MAGISTRATES IN THE LOWER PROVINCES AND THE PRINCIPAL ASSISTANTS TO THE COMMISSIONERS IN THE EXTRA-REGULATION PROVINCES.

Lower Provinces, 27th November, 1848. No. 19.

Instructions regarding executions.

THE Western Court have recently observed one or two instances, in which, according to the certificate endorsed on the sessions judge's warrant, the execution of capital sentences has been rendered revolting and cruel by undue haste or carelessness, on the part of those charged with the duty, in taking down the body before life was extinct, and the consequent necessity of again suspending it. The Court are therefore pleased to direct that the body of a person sentenced to death shall invariably be allowed to remain suspended for one hour at least, and that it shall not even then be removed until death shall be ascertained to have taken place.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 5th January, 1849. No. 20.

Rules regarding arson and incendiarism.

WITH reference to the Court's Circular Order No. 3, dated 3rd June last, I am directed by the Court to request that the crimes of arson and incendiarism be entered separately in the Criminal Statement No. I, Part I, as shewn in the accompanying exemplar.

2. The following translations in Oordoo and Bengalee of the abovementioned terms are prescribed for use in all statements and proceedings.

Arson, عداوۃ مکانات و غیرہ جلا دینا দ্বেষপূর্ব্বক গৃহাদি দাহ করণ।

Incendiarism, عداوۃ اجناس و غیرہ جلا دینا দ্বেষপূর্ব্বক দ্রব্যাদি দাহ করণ।

Statement No. I.

Description of Crimes.

34	Arson.
35	Incendiarism.
36	Forgery or uttering forged documents or papers.
37	Counterfeiting coin or uttering base coin.
38	Perjury or subornation of perjury.
39	Rape.
40	Adultery.
41	Suttee, aiding and abetting.
42	Crimes and offences not specified above.
43	Attempts to commit any of the above.

N. B.—No. 41, in the heading of Part I, Statement No. II, will be altered to 42, to correspond with the above alteration.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES, KUMAON, AND SAUGOR AND NERBUDDA TERRITORIES.

No. 21.

Western Provinces, 27th January, 1849.

Instructions and remarks regarding the rules for conduct of police officers in demanding bail from accused parties, and the due exhibition of results in the periodical statements.

UNDER instructions from the Hon'ble the Lieutenant Governor of the North-Western Provinces, and with the concurrence of His Honor, the Court of Nizamut Adawlut for the North-Western Provinces desire the attention of the local officers to the following instructions and remarks regarding the rules for the conduct of police officers, in demanding bail from accused parties, and for the due exhibition of results in the prescribed monthly and annual statements.

2. The Court have from time to time observed great diversity in the returns from different districts, as regards the number of persons discharged from bail by the police; and they believe that the following abstract of the rules contained in Regulation XX. 1817, on this subject, may serve to correct any misconception that may exist, and to introduce a more uniform practice.

3. There is one provision of the law which, the Court apprehend, has been very generally overlooked. Section 24, Regulation XX. 1817, expressly authorises the police officers, on receiving a complaint for any bailable offence declared to be cognizable by the native officers of police, to "issue a summons" upon the party or parties accused; but in practice, it is believed, this power has seldom or never been exercised. In now calling attention to this rule, the Court desire me to observe that in no part of Regulation XX. 1817, is it provided that parties thus summoned shall not be dis-

charged without giving bail for their appearance before the magistrate. On the contrary, the parenthetical condition, which appears in the 4th Clause of the Section referred to, leaves it to be inferred that police officers may exercise their discretion in taking bail from parties summoned to the thannah on complaint for a bailable offence being preferred against them; and other parts of the same Section show that this privilege of summoning parties charged with bailable offences does not take away from the police officers the power of arresting the same parties, either in the first instance, if circumstances should "require the immediate apprehension of the accused," or subsequently, if the accused party should not answer to the summons; but in that case, as well as in all the cases provided for by Clauses 2 and 11, Section 20, Clause 3, Section 23, Clause 8, Section 25, Regulation XX. 1817, the general rule (to which all the others referred to are subordinate) contained in Clause 17, Section 19, of the same Regulation, will come into operation, *viz.*, that "no person who may once be apprehended" (not summoned) shall be discharged except on bail, or under the special orders of the magistrate.

4. The Court need hardly add that the magistrates are bound to take care that their police officers understand and abide by the law enacted for their guidance, and submit correct returns of their proceedings, as well as that their sudder amlah follow the rules laid down for the preparation of the monthly and annual statements. Of those rules no explanation seems to be needed; they are sufficiently simple and detailed, and the headings of Part III, Statement No. I, (to which the foregoing remarks principally relate,) indicate clearly enough how they are to be filled up.

TO THE SESSIONS JUDGES AND MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 7th March, 1849.

No. 22.

Deputy magistrates and uncovenanted judges exercising magisterial powers have no appellate jurisdiction.

PURSUANT to the orders of the Government, under date the 26th ultimo, the Court notify that deputy magistrates, as well as uncovenanted judges, exercising magisterial powers, are not to exercise appellate authority, and that petitions of appeal, whether from covenanted or uncovenanted subordinates, should not be referred to them for decision.

TO THE SESSIONS JUDGES AND MAGISTRATES IN THE LOWER PROVINCES.

No. 23. *Lower Provinces, 7th April,* 1849.

Attention drawn to the rules for abridging the proceedings of police officers. Sessions judges should take notice of neglect of the rules which may come under their observation.

THE Court desire to draw the attention of the magistrates to the necessity of enforcing the observance of the rules laid down in paragraph 3 of the Circular Order No. 138, dated the 16th June, 1843, abridging the proceedings of police officers. These rules being deemed of much importance, the magistrates are expected to be particularly careful that they are not neglected, and to call to account such officers as may persist in not conforming to them.

2. The sessions judges should avail themselves of every opportunity to point out to the magistrates any instances of neglect of the rules in question, which they may observe when they have occasion to refer to the proceedings of the police in cases committed to the sessions or called for by them.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND NORTH-WESTERN PROVINCES.

No. 24. *Lower Provinces, 7th April, and Western Provinces, 11th May,* 1849.

Form of warrant upon report of a police officer or credible information, to be used under Act XXIII. 1840.

THE following form of warrant is prescribed by the Court for use under Act XXIII. 1840, in cases in which warrants are issued upon the report of a police officer or credible information, as authorised by the concluding sentence of Section 4, Regulation IX. 1807.

No. 12.

WARRANT UPON REPORT OF A POLICE OFFICER OR CREDIBLE INFORMATION.

To Mahomed Buksh, Nazir of the Foujdaree Court of Zillah Hooghly.

WHEREAS Abdoolla Gareewan, inhabitant of Taltulla Bazar, stands charged, upon the report of a police officer (*or* upon credible information) with the crime of murder, you are hereby directed, under Section 4, Regulation IX. 1807, to apprehend the said Abdoolla Gareewan, and to produce him before the magistrate of the said court.

Dated the day of January 1849.

A. B.
Magistrate.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 1st June, 1849.

No. 25.

Revised form of monthly statement No. 4, of suits under Act IV. 1840.

It having been found that the present mode of entering suits under Act IV. 1840, in columns 4 and 9 of Statement No. IV, transferred from the file of one officer to that of another, may cause such suits to be reckoned twice over, the Court direct me to request that you will from the 1st proximo substitute the accompanying form for the one at present in use.

No. 4.

Abstract Statement of Summary Suits for forcible dispossession, under Act IV. 1840, *decided and pending in the*

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Name and official designation of officers and the powers exercised by them	Pending at the end of	Instituted in the	Received by transfer during the	Total	Transferred to other courts	Remaining to be disposed of	Decided on their merits	Adjusted or withdrawn	Dismissed on default	Total disposed of	Pending at the end of	Pending beyond three months	Explanation of entries in column 13.

TO THE SESSIONS' JUDGES AND COMMISSIONERS IN THE LOWER PROVINCES.

Lower Provinces, 20th June, 1849.

No. 26.

Rule regarding transmission of original records of trial and commitment with petitions of appeal from orders of sessions courts.

THE Court request that, in transmitting to them (in accordance with the Circular Order No. 137, 19th May 1843) petitions of appeal from the orders of the sessions courts in criminal trials, you will at the same time, provided the petitions be duly presented within the prescribed period of three months, transmit the records of commitment and trial, in original, without taking copies of them.

2. In the margins of letters transmitting the proceedings, in addition to the dates of the sentences appealed from and of presentation of the petitions, (required by the Circular Order No. 172, 19th July 1844,) are to be entered the names of all the prisoners in the case, from the sentence in which one or more prisoners may have appealed, distinguishing the prisoners who have appealed from the others.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 23rd June, 1849.

No. 27.

Magistrates should take the depositions of complainants, and not merely swear them to the truth of their petitions.

THE Court, having been informed that the practice of requiring complainants in the magistrate's court to swear to the truth of what is alleged in their petitions, is generally prevalent, are pleased to prohibit the same, and to direct that, when any petition preferring a criminal charge is thought by the magistrate to call for judicial investigation, the only regular and proper course will be to take the complainant's deposition on oath or solemn declaration.

TO THE MAGISTERIAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 2nd July, 1849.

No. 28.

Rules for the observance of police officers.

THE Court of Nizamut Adawlut, for the North-Western Provinces, are pleased, with the sanction of Government, to direct that the following rules be communicated by the several magistrates to their police officers for future observance.

1*st.*—In all cases cognizable by the police, the depositions of the informant or plaintiff, or of both, are to be immediately taken at length; the police officers being careful particularly to inquire from

them what they saw themselves, what they learnt from others, who the persons were from whom they learnt it, the prosecutor's witnesses, and what evidence each witness is supposed to be capable of giving. In cases of dacoity, highway-robbery, theft, and burglary, the list of property lost must invariably accompany the plaintiff's deposition, and the above papers must be forwarded to the magistrate immediately on being received.

2*nd*.—The sooruthals required in Sections 14 and 15, Regulation XX. of 1817, or in cases of dacoity, describing the appearance presented and the facts brought to light in a *primâ facie* inquiry, to be sent to the magistrate, in place of a report, the moment they are drawn up.

3*rd*.—Confessions of prisoners to be taken at length. No persons employed about the thannahs, or chowkeedars, doosadhs, chumars, or of such other descriptions, to be made subscribing witnesses to the same by the police, under penalty of forfeiture of situation. These must always be respectable men of the place, and such, if possible, as can read and write, and they should be required to question the prisoner themselves whether he has confessed voluntarily to the facts stated.

4*th*.—The depositions of witnesses are not to be detailed in the papers sent to the magistrate, and the summary of it to be given in the simplest form.

For example, in a case of highway-robbery with murder :

Nuzzeer Allee, Peer Bux, and Govind Ram deposed to having witnessed the deed ;

Doorga, Ewaz Jan, and Ruttun recognize the property ;

Sheo Lal and Gooroo Das witnessed the search of prisoner's house ;

Sujut Allee and Gungadeen saw prisoner running off with a drawn sword in his hand ;

Janokia Dosadh, chowkeedar, arrested the prisoner, and saw marks of blood on his clothes.

5*th*.—At the bottom of this summary, the darogah is to enter the names of those witnesses whom he examined, but who professed ignorance, or gave evidence so unimportant as not to require their being sent in.

6*th*.—In sending in the prisoners, at the close of an inquiry, the darogah to enter his grounds for so doing (without any recapitulation of evidence) in the column of remarks of the chullan, No. 2 of Appendix to Regulation XX. of 1817.

7*th*.—No precise rules can be laid down for the returns to perwannahs ; but any police officer, unnecessarily taking up the time of the magistrate with long reports, will be punished by fine, and such conduct, if persisted in, will cause dismissal.

8*th*.—The darogahs are informed that all excuses for delay, in preparing and copying out voluminous reports, being obviated by the above rules, any breach of the Regulations in the detention of arrested persons, or any slowness in the inquiry, will be severely dealt with.

They are also to report concisely, but clearly, all important occurrences which may take place within their jurisdiction, considering that an important part of their duty.

9th.—In cases when the darogah may not think the case sufficiently proved to warrant the transmission of the accused parties to the magistrate, he is to send in the substance of the evidence of each witness, the statements of the plaintiff and defendants, the latter taken at length, and a clear statement (without recapitulating any evidence) of the grounds of his opinion for releasing the accused.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 29.

Western Provinces, 7th September, 1849.

Instructions relative to the practice to be observed in future, in dealing with persons proved to have committed penal acts while insane.

THE Circular Orders of the Nizamut Adawlut, No. 233, dated 8th May, 1820, and No. 307, dated 11th February, 1825, regarding the practice to be followed in dealing with persons proved to have committed penal acts while insane, were partly rescinded by Circular Order Nizamut Adawlut, No. 183, dated 27th September, 1844, and this latter has now been superseded by Act IV. of 1849, the 3rd Section of which empowers the court, before which the trial of any such person may be held, to direct the prisoner to be kept in safe custody until the pleasure of Government shall be known.

2. The Court are pleased accordingly to notify rescission of Circular Orders, No. 233, dated 8th May, 1820, No. 62, dated 4th September, 1840, and No. 183, dated 27th September, 1844, as well as modification of Circular Order No. 307, dated 11th February, 1825, and, with the sanction of Government, to direct that, whenever a person may be acquitted of any offence because he is within the exception made by Section 1, Act IV. of 1849, the court, before which the trial was had, shall order the prisoner to be kept in safe custody until the pleasure of Government shall be known, and shall immediately report the result of the trial to the Secretary to Government, Judicial Department, and apply for the requisite instructions regarding the disposal of the prisoner.

3. Sessions judges will communicate direct with the Government on this subject. Magisterial officers will submit their applications to the Government through the channel of the sessions judge's office.

TO THE CIVIL AND SESSIONS JUDGES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 21st September, 1849. No. 30.

Attention drawn to the Circular Orders regarding applications of judges for leave of absence.

THE Government having brought to the notice of the Court that the rule, contained in the Circular Orders, Sudder Dewanny Adawlut, No. 25, dated 4th January, 1811, and No. 177, dated 22nd July, 1836, which requires civil and sessions judges to submit, with their applications for leave of absence, a statement of the business pending before them, is generally neglected, the Court call the attention of the judges to it, and direct its observance on all future occasions.

TO THE SESSIONS JUDGES IN THE LOWER PROVINCES AND THE COMMISSIONERS IN THE EXTRA-REGULATION PROVINCES.

Lower Provinces, 28th September, 1849. No. 31.

Rescission of certain Circulars regarding disposal of persons proved to have committed penal acts while insane.

THE Court notify the rescission of the Circular Orders cited in the margin in consequence of the enactment of Act IV. of 1849. Cases of acquittal on the ground of insanity, are to be entered as heretofore in the Statement (No. 8) of acquittals for the month in which the trial was held.

Circular Order No. 233, dated 8th May, 1820.
Para. 6, C O. No. 307, dated 11th Feb. 1825.
C. O. No. 62, dated 4th Sept. 1840.
C. O. No. 183, dated 27th Sept. 1844.
C. O. No. 201, dated 25th April, 1845.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 5th November, 1849. No. 32.

Magistrates may try persons charged with privity to offences beyond their cognizance, if principals have not been apprehended, but

WITH reference to the definition of "privity," contained in Circular Order, Nizamut Adawlut, North-Western Provinces, No. 8, dated 7th June, 1847, the Court think it useful to notify that, as ruled by both Courts of Nizamut Adawlut, magistrates are competent to try parties charged with privity to murder, or privity to other offences beyond their cognizance, and to punish the said parties, as for a misdemeanor, provided that the principals accused of the murder or other offence have not been apprehended.

must commit if principals also have been apprehended.

2. But, if a party so charged with privity be apprehended along with those accused of the principal offence, the magistrate must commit him to the sessions court, that there may be one trial by that court of all charges connected with the same offence.

TO THE CRIMINAL AUTHORITIES IN THE REGULATION AND NON-REGULATION DISTRICTS.

Lower Provinces, 15th February, and Western Provinces, 28th March, 1850.

No. 33.

Criminal courts not to proceed to try and sentence a person, whom they may themselves have reason to regard as not subject to their jurisdiction, without due inquiry on the point.

In circulating for your information and guidance the accompanying judgment of Her Majesty's Supreme Court, in the case of a writ of *Habeas Corpus* applied for by V. Foy, the Court direct me to notify the rescission of Construction No. 759, founded on the principle declared in the case of Government *versus* Mandeville (Nizamut Adawlut Reports, volume 2, page 111) that the *onus probandi* as to his birth rests on a prisoner. The criminal courts are hereby directed not to proceed to try and sentence a person, whom they may themselves have fair reason from any cause to regard as probably not subject to their jurisdiction, without making all practicable inquiry to satisfy themselves on the point.

JUDGMENT.

The question to be decided is, whether the Court ought to issue a writ of *Habeas Corpus* to bring up the person on whose behalf it is applied for, in order that the subject of the legality of his imprisonment may be discussed before us. It appears that he has been sentenced and imprisoned for an offence by a Court of competent jurisdiction over the offence, and that he is now undergoing the imprisonment awarded him. The cause shown against the rule to show cause why the writ should not issue, is a want of jurisdiction in this Court to issue the writ.

It is stated on behalf of the applicant that he is a British subject; and the argument is that the Court which condemned and sentenced him, had not jurisdiction over him, and, therefore, that the sentence is a nullity, the proceedings being *coram non judice*. A Court of limited criminal jurisdiction, which has sentenced an accused person, must necessarily be understood to have included in its decision the question of his liability to its jurisdiction. If it decide on the presumption of his liability to its jurisdiction from the fact of his not contesting it, it is a point not the less involved in its decision. Its proceeding would not be the less judicial, even if it were erroneous. If it were returned to this Court, as it would be if a return were

called for, that this party was sentenced and imprisoned under the sentence of a Court having competent jurisdiction over the subject matter, we could not liberate him merely because this return did not negative the fact of his being a British subject, which is stated in the affidavit. This Court has, undoubtedly, jurisdiction over all persons in the employment of the East India Company within Bengal, Behar and Orissa, and the annexed places thereto, in respect of torts; for that which was its originally granted jurisdiction is in no way abridged in respect of torts, therefore, whether a gaoler were a Native or an European, if he had the character of a servant of the East India Company, the Court would have jurisdiction over his wrongful act, of his unlawful imprisonment, and, as a British subject is entitled to the writ of *Habeas Corpus* as of right, he might bring thus the question of the legality of his imprisonment before this Court. Nor is there anything in the case of Sir John Grant's appeal at all at variance with this doctrine. Whether a gaoler did or did not fill the character of a servant of the East India Company would depend on circumstances of appointment, remuneration, and the like, such as in ordinary cases determine whether the relation of master and servant exists. There is not, therefore, necessarily a want of jurisdiction in this Court to issue the writ, merely because the party is detained in the mofussil and in the gaol of a Court of the East India Company; for, being a British subject, the writ is claimable by him of right, if it seem to the judge that there is apparent ground to ask it, and the gaoler may, as a servant of the Company, be subject to the jurisdiction.

The case of "In the matter of Brennan and another," furnishes the rule on this subject. This Court, though it has an appellate jurisdiction from the Courts of the Company to a limited extent in certain classes of offences committed by British subjects, has no jurisdiction generally over those Courts. It has. therefore, no power to rectify a decision if erroneous, or avert its consequences. Nor is a writ of *Habeas Corpus* the proper writ to rectify errors, it brings up the person only and the cause of commitment on the return; a *certiorari* must issue in addition to bring up documents; but this Court has no power to bring up by *certiorari* the proceedings of a Court of the East India Company generally: it follows, therefore, that we can interfere only in the case where the proceeding is wholly without a judicial foundation to support it, as it would be if the Court had no jurisdiction to try the subject matter. But the judge had jurisdiction of the cause, he had jurisdiction to summon the alleged offender, he could not know beforehand that the offender was a British subject, and the objection may be untruly made. It is a mixed question itself of law and fact, which must, if raised, be tried and determined judicially in the Court. The Court is, therefore, necessarily acting judicially in the determination of that question. This Court has also a limited jurisdiction. If a party is indicted here for an offence committed in the mofussil, it is necessary to prove

our authority to try him by proving him subject to the jurisdiction. Let the issue then be whether the defendant is or is not a British subject, a jury must determine it, and if they decide it affirmatively though in fact erroneously, the proceeding cannot be treated as *coram non judice*. The question would have been decided though erroneously by a Court of competent jurisdiction to try that fact; if we could not, as we clearly could not, rectify that error by liberating the prisoner under a writ of *Habeas Corpus*, neither could we take that course if a like erroneous decision were come to by one of the Company's Courts. It is urged, however, that he is now admitted to be a British subject, and that the Court did not, in fact, try the question. We cannot, however, enter into the matters. The only matter which the party would be bound to return to us, if we issued the writ, would be that which in fact appears, the substance of the sentence as the authority for the detention. It is true as argued that no waiver or consent of the accused can give a criminal court jurisdiction. Its jurisdiction is limited by its constituent authority.

I do not acquiesce in the doctrine imputed to the late Mr. Sergeant Spankie, that, if a defendant does not in every case, in fact, allege *and prove* his exemption, the Court may safely go on. It is a dangerous doctrine, and calculated to mislead. The law is, that if a judge has not jurisdiction, and has the knowledge, or *means of knowledge*, of his want of jurisdiction, he is liable as a trespasser if he act—see Calder *versus* Halkett, and the cases there referred to. The duty of a Court is to walk in the course prescribed to it, and not to assume a jurisdiction which has not been confided to it. If a Court have reasonable ground to doubt its jurisdiction, it should take care to clear up the point, and to allow time for the production of the proper evidence. It is undoubtedly true that if a Court of limited jurisdiction exceed its jurisdiction by reason of the existence of a personal exemption, or other cause not communicated, not known to the judge, or of which he has not the means of knowledge in his reach, that the judge and its officers *cannot be treated as trespassers*. The case of the Marshalsea Court, cited in Mr. Baron Powell's judgment, shows that it is otherwise where the means of knowledge are in the power of the judge. It is, therefore, an unsafe doctrine to hold out to a judge that he may disregard an apparently *bonâ fide* claim of personal exemption from his jurisdiction, which he knows, or has good reason to believe, is well founded, on the ground of the absence of legal proof of the fact of the exemption, for in many cases no doubt can exist of the truth of facts, which a party incapacitated from giving evidence for himself is under a temporary inability to prove, and the question would be if the judge really believed that he had the jurisdiction which he exercised. The question would not turn on this, *viz.*, on whom the *onus* of proof of the exemption would lie, if put in issue; but on the *bonâ fide* of proceeding upon the claim of exemption. The question before us, however, is unaffected by such considerations, for if there

be error in the proceeding, it is not the less a proceeding of a Court of competent jurisdiction. It is not alleged that the Court knew that it wanted jurisdiction; that question might be tried in its appropriate mode of proceeding either by criminal or civil procedure. If a judge discovers at any stage of his proceeding that he has really no jurisdiction over the subject matter or the person, he would be utterly inexcusable if he proceeded further, and did not do his utmost to remedy what had been unwittingly done in the belief of jurisdiction. The immunity from suit is in respect of the judicial character, which, if a man assume over the subject matter, or the person when he knows that he has it not, he neither merits nor has the immunity.

TO THE SESSIONS JUDGES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 4th March, 1850.

No. 34.

Directing attention of the sessions judges to the necessity of exercising caution in ordering the committal for perjury of parties who have contradicted before the sessions court the evidence given by them before the magistrate.

THE Court of Nizamut Adawlut direct the attention of the sessions judges in the North-Western Provinces to the necessity of exercising great caution in directing the committal for perjury of parties who have contradicted before the sessions court the evidence given by them before the magistrate, especially where the contradiction benefits the party accused.

2. By an indiscriminate or injudicious use of the power vested in the sessions judge, witnesses would be forced to adhere to any perjury, which they may have committed before the magistrate, whereas by abstaining from the punishment of those witnesses who may appear to correct at the sessions the falsehood of their first evidence, and limiting the order of committal to those who manifestly make a false deposition before the sessions judge, the ends of justice would be more satisfactorily attained.

TO THE MAGISTRATES AND JOINT MAGISTRATES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 22nd March, 1850.

No. 35.

Extending the period for the distinction of accumulated records of the magistrates'

THE Court of Nizamut Adawlut are pleased to extend the limit assigned by paragraph 3 of the rules annexed to Circular Order, No. 182, dated the 16th October, 1835, authorising the destruction of accumulated records of the magistrates' courts, from the year 1830 inclusive to the year 1845 inclusive.

courts, from 1830 to 1845 inclusive.

2. The magistrates will be careful to avoid the destruction of all records of cases decided under Act IV. of 1840, which are required to be preserved by paragraph 2, and generally to conform to the provisions of the rules referred to.

TO THE SEVERAL SESSIONS JUDGES, MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER AND WESTERN PROVINCES.

No. 38.

Lower and Western Provinces, 14th May, 1850.

When a prisoner charged with dacoitee belongs, or has belonged, to a gang of dacoits, such as is referred to in Act XXIV. of 1843, a count to that effect to be entered in the indictment.

THE Court of Nizamut Adawlut direct the attention of the criminal authorities to the provisions of Act XXIV. of 1843, and are pleased to order that whenever there may be reason to believe that a prisoner, charged with the crime of dacoitee, belongs, or has belonged, to a gang of dacoits, such as is referred to in that Act, a count to that effect shall be entered in the indictment in addition to the specific charge of dacoitee.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND NORTH-WESTERN PROVINCES.

Lower Provinces, 19th April and 31st May, and Western Provinces, 14th June, 1850.

No. 41.

Notifying rescission of Circular Order, No 54, dated 24th July, 1840, and of Constructions No. 1312, dated 26th November, 1841, and No. 1333, dated 27th May, 1842.

THE Court notify the rescission of Circular Order, No. 54, dated 24th July, 1840, and of Constructions No. 1312, dated 26th November, 1841, and No. 1333, dated 27th May, 1842.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES AND IN THE NON-REGULATION PROVINCES.

Lower and Western Provinces, 29th June, 1850.

No. 42.

Modifying Circular Order of the 5th March, 1810, regarding executions.

THE Circular Order No. 65, of the 5th March, 1810, is hereby modified:

First.—All executions shall take place at the sudder station of the officer to whom the warrant is directed, unless expressly otherwise ordered in the sentence of the Nizamut Adawlut.

Secondly.—The magistrate or his assistant, covenanted or uncovenanted, is to be present at every execution, whether at the sudder station or in the interior.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 27th September, 1850.

No. 43.

Notifying that uncovenanted officers, not vested with the powers of a magistrate, are not authorised by Act XXVII. of 1845, to decide cases under Act IV. of 1840.

THE Court notify that uncovenanted officers, not vested with the full powers of magistrate, are not authorised by Act XXVII. of 1845, to decide cases under Act IV. of 1840.

NOTE.—See Act X. of 1854.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 28th September, 1850.

No. 44.

Forwarding Advocate General's opinion regarding jurisdiction of mofussil magistrates in cases of assault by one European British subject upon another European British subject.

THE Court publish, for general information, an extract from a letter communicating the Advocate General's opinion regarding the jurisdiction of mofussil magistrates in cases of assault, by one European British subject upon another European British subject.

"In the case of an assault by one British subject upon another British subject, a mofussil magistrate cannot proceed under Statute 53, George 3, Chapter 155, Section 105, inasmuch as that Section applies only to complaints made by Natives against British subjects; but I am of opinion that the magistrate has jurisdiction to take penal recognizance, and proceed under the provisions of Act V. of 1848."

NOTE.—See No. 66 of this Vol.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE REGULATION AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 6th November, 1850.

No. 45.

Rules to be observed on applications being made to the Court, for copies of proceedings or documents in order to their being produced in Her Majesty's Supreme Court.

I AM directed by the Court to send, for your information and guidance, the following rules to be observed on application being duly made to the presiding authority of a Court for copies of proceedings of the Court, or for documents filed on the records of the Court, in order to their being produced in Her Majesty's Supreme Court:

1. The presiding officer of any court on application being made to him in the usual form for leave to take a copy of any recorded *proceeding* of his court, for the purpose of being produced in evidence before Her Majesty's Supreme Court of Judicature at Fort William in Bengal, shall, (provided there be no special objection to granting the copy, in which case a proceeding to that effect should be recorded by the presiding officer.) direct such copy to be made at the expense of the party applying for the same, and shall permit the same, when made, to be examined with the original proceeding by the record-keeper or other person intended to be produced as a witness, to the correctness of such copy, and, if any commission shall have been issued out of the said Supreme Court to such presiding officer for the examination of such person, shall examine him according to the tenor of such commission; or if the party applying for such copy shall be satisfied with such certificate, shall certify under his hand that such copy is a true copy of the proceeding whereof the same purports to be a copy.

2. The presiding officer of any court, on application being made to him in the usual form for directions for the production of any *document* in his court, which may be required to be produced in evidence before the said Supreme Court, shall immediately record a proceeding declaring whether there is, or is not, any objection to the production of the document in question, and a copy of such proceeding shall be given to the applicant. The objection, whether arising from the pendency of any case to the decision of which the document is necessary, or other cause, is to be fully stated in the proceeding, and the presiding officer shall in that case use his best endeavour to remove the objection by the decision of the suit, or otherwise as speedily as may be practicable. If the presiding officer shall record that there is no objection to the production of the document in question, or if any recorded objection shall afterwards be removed, then upon service upon the record-keeper of a subpœna *duces tecum*, and on tender of his expenses, the record-keeper or some subordinate officer commissioned by him, shall proceed with the document in question to Calcutta, and produce the same before the said Supreme Court according to the exigency of the subpœna.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 22nd November, 1850.

No. 46.

Government servants dismissed from one department not to be considered eligible for employment in any other department.

In pursuance of the orders of Government, contained in the letter from the Under-Secretary to Government dated 25th ultimo, No. 1553, the Court publish, for general information, the following extract from a despatch from the Hon'ble the Court of Directors, No. 27, of the 10th July, 1850:

[19.] "We consider it so injurious to the service that men who have been dismissed for misconduct from one department, should be considered eligible for re-employment in any other department, that we must entirely discountenance such a practice. It is a wholesome check upon negligence and dishonesty, for the servants of Government clearly to understand, that probity and diligence are the only means of retaining employment under Government."

Note.—See No 75 of this Vol.

TO THE CIVIL AND SESSIONS JUDGES IN THE LOWER PROVINCES.

Lower Provinces, 25th November, 1850.

No. 47.

The annual civil and criminal reports to be submitted by the 1st of February of each year.

Considerable delay having occurred in past years in the receipt of some of the annual zillah statements and reports on the administration of civil and criminal justice, your attention is now specially called to the subject, with a view to prevent similar delay at the close of the current year.

2. The Court are aware that the delay generally arises from the fact that the statements are often not received from the subordinate authorities, so as to admit of their being submitted within the time prescribed by the Circular Orders of the 21st December, 1838, Sudder Dewanny Adawlut, (paragraphs 4 and 5,) and that of the 27th June, 1842, Nizamut Adawlut, (rules 5 and 87 of the magistrate's statements,) or that they arrive in an imperfect state, and it is found necessary to return them for correction.

3. You are requested, therefore, to call the attention of your subordinates to the subject, and to direct them to commence the preparation and revision of their statements in December, so as to have them as far advanced as possible before the end of the year. The addition of the December returns to them will then be a work of comparatively little trouble, and their reports may be completed and sent in by the 15th of January, so as to enable you to submit your own by the 1st of February.

4. You will also impress on your subordinates the necessity of careful revision of the statements in order to ensure their correctness, and to avoid the necessity of their being returned, and will point out to them that the Court consider the punctual despatch of correct statements an important duty, the neglect of which will not be overlooked by the Court in the comparative estimate of their qualities as public officers.

5. You will consider these directions equally applicable to your own office, and will hold in mind that the utility of periodical reports is seriously impaired and often entirely destroyed by delay in the receipt of them.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

No. 48.

Lower Provinces, 13th December, 1850.

Notifying the rescission of Circular Order, No 1, dated the 22nd January, 1847, containing Construction of Act III. of 1844.

THE Court notify the rescission of their Circular Order, No. 1, dated the 22nd January, 1847, containing a Construction of Act III. of 1844.

TO THE MAGISTERIAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

No. 49.

Lower and Western Provinces, 14th December, 1850.

Calling attention to Act XXIII. of 1840, and Circular Order, No. 40, dated 9th October, 1829.

THE Court having been informed that some of the magistrates are in the habit of disregarding the provisions of Act XXIII. of 1840, are pleased to enjoin, in future, on the part of all the magisterial functionaries subordinate to them, a strict compliance with the terms and requirements of that enactment.

2. In particular their attention s directed to the Circular Order of the Nizamut Adawlut, No. 40, dated October 9th, 1829, which instructs them, whenever they may have occasion to solicit the interference of the Calcutta magistrate, in aid of their own process for the arrest of a fugitive offender, to depute an officer of their own court for the purpose of identifying the individual, and of taking charge of him if arrested.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 20th December, 1850.
Western Provinces, 24th January, 1851. No. 50.

Advocate General's opinion relative to the enforcement by the Company's judicial officers of the Acts of Parliament relating to India.

THE Court publish, for general information, a copy of the Advocate General's opinion relative to the enforcement, by the Company's judicial officers, of Acts of Parliament relating to India, enacted since the passing of the last Charter Act, which have not been promulgated by any Act of the local legislature.

QUESTION.

"With reference to the precedent laid down in the case of Mr. D'Souza *versus* Lieutenant Wroughton, Sudder Dewanny Adawlut Reports, 23rd February, 1827, volume IV., page 225, and to the terms of Regulation XX. of 1825, is the enforcement of the provisions of Act 3 and 4, Vic. Cap. 37, Section 36, relative to the punishment of persons buying clothes, &c., from the European soldiers in the Company's service, binding on magistrates in the Company's criminal courts, no Act of the local legislature having been passed with reference to, and for the promulgation of, the above cited Act of Parliament?"

OPINION.

"I am of opinion that the 36th Section of 3 and 4, Vic. Cap. 37, is binding on magistrates of the Company's criminal courts, although no Act of the local legislature has been passed for the promulgation of that Act of Parliament.

"By the present Charter 3 and 4, William 4, Cap. 85, a subordinate legislature was created, and it was expressly provided that the Governor General in Council should have power to make and alter laws, save and except 'any Laws or Regulations, which shall in any way repeal, vary, suspend or affect any of the provisions of this Act, or any of the provisions of the Act for punishing Mutiny or Desertion of Officers and Soldiers, whether in the service of Her Majesty or the said Company, or any provision of any Act hereafter to be passed in any wise affecting the said Company, or the said Territories, or the inhabitants thereof.' Since the passing of this Act, the Imperial Legislature has often passed Mutiny and other Acts applicable to India and its inhabitants, which have never been promulgated by any Act of the local legislature, and which nevertheless have been without question enforced in this country. I would refer to the Mutiny and Insolvent Acts as examples which have never been promulgated by any Act of the Indian legislature. If such promulgation were necessary the Charter Act

would contain some enactment to that effect; but the Charter Act contains a provision that the Indian legislature shall not have power to suspend any Act of the British Legislature (passed since the Charter Act) applicable to this country. Now, if it be true that Acts of the British Parliament are not in force here until promulgated by the Indian legislature, then it must follow that such British Acts have no force in this country of themselves, and are suspended until the Indian legislature chooses to promulgate them, a state of things which the 43rd Section of the Charter Act was expressly framed to prevent

"I am also of opinion, upon the Construction of the whole of the Section 36 of 3 and 4, Vic. Cap 37, that the offence is one cognizable by the criminal courts, and that a magistrate has power to enforce the penalty.

"The 3 and 4, Vic, Cap 37, was a Mutiny Act for the Company's European forces, and although a great many of its provisions have been recently superseded by a new Mutiny Act (12 and 13, Vic Cap. 43,) yet the Act 3 and 4, Vic. has not been entirely repealed, and the 36th Section still remains in force.

"I am at a loss to understand the principle upon which the case of D'Souza *versus* Wroughton, IV., Sudder Dewanny Reports, was decided; but as that case occurred before the passing of the late Charter Act, it seems unnecessary to consider it more particularly."

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 27th December, 1850.

No. 51.

All covenanted officers exercising magisterial powers, and deputy magistrates, to take and subscribe the oath appointed to be taken by the justices of peace.

WITH reference to the provisions of Act XVI. of 1841, and to a communication from the Under-Secretary to Government of Bengal, under date the 30th ultimo, acquainting the Court that a new general commission of the peace has been issued from the Supreme Court, comprising the names of all the covenanted civil officers, military officers holding civil appointments, and deputy magistrates under the Government of Bengal, I am directed by the Court to request that all covenanted officers exercising magisterial powers, and all deputy magistrates, who may not already have been sworn in, shall take and subscribe, without delay, the oaths appointed to be taken by the justices of peace, and that the civil or criminal authorities, before whom such oaths may be taken, will forward to this Court a list of the officers sworn, with the dates on which the oaths in each case were administered.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 28th December, 1850.

No. 52.

Calling attention to Section 6, Regulation VI. 1803, which enjoins magistrates to satisfy themselves that all confessions made by prisoners are free and voluntary, and to other matters.

THE Court think it proper to remind magistrates, that by Section 6, Regulation VI. of 1803, they are "strictly enjoined to satisfy themselves that all confessions made by prisoners are free and voluntary," and are "further required to take special care that persons upon being apprehended are not made to suffer corporal punishment, or otherwise illtreated, under the pretence of compelling them to answer truly to questions which may be put to them, or any other pretext whatever."

2. Few young officers, they observe, are aware how often confessions are not spontaneous; and, therefore, the magistrates themselves, who are responsible for the discretion with which they entrust their duties to their subordinates and assistants, are bound to exercise a peculiarly watchful care and supervision in this important matter. In connection with this subject, the Court are pleased to direct that, whenever, in capital cases, confessions are taken by other than covenanted officers, the magistrates shall assign the special reasons which made such a measure necessary or advisable.

3. More attention than is now apparent should be paid to the record of confessions, in order to ensure the legibility and distinctness of such serious documents as they are. A few minutes more spent in writing would sometimes prevent the waste of hours in reading them, and obviate doubts as well as trouble. The handwriting of some confessions which have lately been before the Court is disgraceful.

4. Greater pains should be bestowed on the preparation of the sketches prescribed by Clause 3, Section 13, Regulation XX. of 1817. A scale should be adopted for the purpose of showing the relative distance of one object from another. A house and a tree need not be represented by precisely the same diagram.

5. The sessions judges are requested to remark that, in cases referred or appealed to the Nizamut Adawlut, such maps and a copy of the calendar, when they form part of the proceedings should *always* accompany them, and that without such maps it is frequently impossible to understand the English reports, or the contents of the Persian misl.

6. As the Court have also noticed, that the rules laid down in paragraph 6 of Circular Order No. 54, dated 16th July, 1830, regarding the transfer of certain essential papers from the magistrate's proceedings to the record of trial, and in Circular Order No. 211, dated 28th October, 1836, respecting the specification in the calendar of all documentary evidence produced in cases of forgery, embezzlement and the like, are now frequently neglected, they desire that in future they may not, on any occasion, be overlooked.

7. In conclusion the Court take the opportunity of notifying to sessions judges, that it is in their opinion highly inexpedient to compose a jury entirely of vakeels and mookhtears, or of less than three persons.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 53.

Western Provinces, 1st February, 1851.

Promulgates Advocate General's opinion on the scope of Act 3 and 4, Victoria, Chapter 37.

THE following extract from a letter addressed to the Court by the Advocate General, with reference to the scope of Act 3 and 4, Victoria, Chapter 37, is published for general information :—

"I am of opinion that the 40th Section of the 3rd and 4th Victoria, Chapter 37, limits the operation of the Statute to the parties specified in that Section, and that persons not belonging to any of the classes of persons mentioned in the 40th Section are not punishable under the 36th Section. This Construction is somewhat strengthened by the 11th Clause, which shows that the parties (without any exception being mentioned) intended to be tried and punished under the Act, are the parties subject to its provisions according to the 40th Section.

"It is possible that this Construction may not be consistent with the intention of those who framed the Statute, but I can put no other construction on the enactment, which, being of a penal nature, must be construed strictly.

"The New Mutiny Act for the East India Company's Forces, (Statute 12 and 13, Victoria, Chapter 43), although it re-enacts with alterations almost all the Clauses in the 3rd and 4th Victoria, Chapter 37, does not alter, re-enact, or repeal the 26th Section of that Statute."

TO THE SESSIONS JUDGES IN THE LOWER PROVINCES.

No. 54,

Lower Provinces, 18th February, 1851.

Directing sessions judges to specify distinctly in their Vernacular proceedings, the particular count, the averments of which they conceive to have been established against an accused.

THE Court, having observed that in cases where the accused is committed on more than one count, the judges not unfrequently omit to state in their Vernacular proceedings on which count they convict, I am directed to request that, in all such cases, you will be careful to specify distinctly in those proceedings the particular count, the averments of which you conceive to have been established on the trial.

TO THE SEVERAL SESSIONS JUDGES, (EXCEPT SESSIONS JUDGE OF MOORSHEDABAD), MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 21st February, 1851. No. 55.

Forwarding, for the information and guidance of the criminal authorities, instructions regarding the execution of orders for levying fines under the provisions of Act XVI. of 1850.

I AM directed by the Court to forward to you, for your information and guidance, the accompanying extract of a letter this day written by their order, to the sessions judge of Moorshedabad, regarding the execution of orders for levying fines under the provisions of Act XVI. of 1850.

Extract of a letter, No. 140, *dated the* 21*st February,* 1851, *to the Sessions Judge of Moorshedabad.*

With reference to the question which you put in your 3rd paragraph, the Court are of opinion that the order of a sessions judge, directing the levy of a fine under the provisions of Act XVI. of 1850, should not be carried into execution until the period allowed for appeal has elapsed, and, in the event of an appeal being made, until the final sentence has been passed. The same principle must be considered applicable to sentences passed under this Act by the magistrate or his subordinates.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 27th March, 1851. No. 56.

With reference to the Circular Order, No. 54, of the 16th July, 1850, directing that whenever a committing magistrate may be prevented in any serious case, from receiving a confession in person, the circumstances which may have prevented him should be placed on record by an official note or memo. to be filed with the proceedings of the case.

THE Court, having had before them a case in which the foujdarry confession was taken before the deputy magistrate, although the case was pending before the magistrate himself, direct me, with reference to paragraph 20 of the Circular Order, No. 54, of the 16th July, 1850, to state that whenever a committing magistrate may be prevented in any serious case, from receiving a confession in person, the circumstances which may have prevented him should be placed on record by an official note or memorandum to be filed with the proceedings of the case.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 57. *Western Provinces, 25th April*, 1851.

Para. 3 of the Circular Order, No. 3, dated the 17th November, 1837, modified, and magistrates directed to communicate to the officer in charge of the regiment or department to which the deceased belonged, regarding the estates of any deceased officer or soldier.

THE Articles of War, Nos. 102 and 103, vest the administration of the estate of any deceased officer or soldier, or person receiving public pay drawn by any officer in charge of a public department belonging to the army, in the military authorities, whenever there may be no heir or executor of the deceased on the spot at the time of decease, thereby precluding the jurisdiction of the civil courts in regard to the same under Clause 7, Section 16, Regulation III. of 1803, as was notified to the civil authorities by the Circular Order of the Sudder Dewanny Adawlut, No. 96, dated 14th June last.

2. Accordingly the Court are pleased to modify paragraph 3 of their Circular Order No. 3, dated 17th November, 1837, by directing that whenever any property of the kind described in the preceding paragraph may come into the hands of a magistrate, he shall, instead of forwarding it as heretofore to the judge of the district, communicate with the officer commanding the regiment or in charge of the department to which the deceased belonged, and comply with the instructions which such authority may give regarding the disposal of it.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE REGULATION AND EXTRA-REGULATION PROVINCES.

Western Provinces, 20th May, 1850.
Lower Provinces, 13th May, 1851.

W. P. No. 39.

L. P. No. 58.

Prescribing form of statement to enable the Court to judge of the manner in which Act XVI. of 1850 is applied.

To enable the Court of Nizamut Adawlut to judge of the manner in which Act XVI. of 1850 is applied, the several criminal authorities are requested to adopt the use of the subjoined form of statement:

FOR MAGISTRATES.

PART 7, OPERATION OF ACT XVI. OF 1850.

	1.	2.	3.	4.	5.	6	7.	8.	9.	10.	11	12
	Exceeding Rupees						Not exceeding Rupees		Total.		Amount realized in the month.	Amount paid to injured parties in the month
	500.		100.		10.		10.					
	Persons.	Amount.	Persons.	Amount.	Persons.	Amount.	Persons.	Amount.	Persons.	Amount.		
Magistrate, ...												
Joint Magistrate, .												
Assistant,												
Deputy Magistrate,												
P & Ameen, ..												
Sudder Ameen, . ..												
Law Officer, ...												
Total, ...												

To be entered betweeen Parts V. and VI. No. II. of magistrate's statement, by curtailing a portion of the space allotted to the former in the lithographed form.

FOR SESSIONS JUDGES.

PART 6, OPERATION OF ACT XVI. OF 1850.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
Exceeding Rupees						Not exceeding Rupees		Total.		Amount realized in the month.	Amount paid to injured parties in the month.
1000.		500.		100.		100.					
Persons.	Amount.	Persons.	Amount.	Persons.	Amount.	Persons.	Amount.	Persons.	Amount.		

In the sessions judge's statements the form will occupy the space below Part IV. No. I.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE REGULATION AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 16*th May*, 1851.

No. 59.

Forwarding an extract from a letter from the Government directing sessions judges to bring to the notice of the Court, for ulti-

I AM directed by the Court to send you an extract (paragraphs 8 and 9,) from a letter from the Secretary to the Government of Bengal, No. 908, dated 28th ultimo, directing the sessions judges to bring to the notice of the Court, for ultimate report to Government in serious instances, cases of palpable disregard of the forms of law in the proceedings of a magisterial officer, detected on appeal, or otherwise.

Extract (paragraphs 8 *and* 9,*) from a letter from the Secretary to the Government of Bengal, No.* 908, *dated* 28*th April,* 1851.

mate report to Government, in serious instances, cases of palpable disregard of the forms of the law officer in the proceedings of a magistrate, detected on appeal or otherwise.

Para. 8. For this reason the Deputy Governor requests that the Court will issue orders to the sessions judges, directing them to report to the Nizamut Adawlut every case of palpable disregard of the forms of law in the proceedings of a magisterial officer, which may come to their notice, on appeal, or otherwise. The Court will inform the judges that they will be held strictly responsible for the proper discharge of this duty.

Para. 9. When such a case is reported to the Court, in this manner, the Court will take such notice of it as may seem to them proper. And the Court will always report to Government every serious instance in which any magistrate is found by them to have made himself a second time justly liable to blame, for disregard of the forms of law.

TO THE MAGISTRATES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 31*st May,* 1851.

No. 60.

Publishes extract of a letter from the Government of the N. W. P., explanatory of the Notification of the 7th March preceding, regarding charges against Native officers.

WITH a view to prevent misconception of the meaning of the notification in the Judicial Department, No. 824, dated 7th March last, which appeared in the *Government Gazette* of the 11th idem, the following extract from a letter, No. 1527, addressed to the Court on the 28th ultimo, by the Secretary to the Government, North-Western Provinces, is published for general information :—

"The Lieutenant Governor observes that it is evident, from the terms both of the Sudder Board's Circular, dated 11th October, 1844, and of the Government Notification, dated 7th ultimo, that the restrictions therein contained are only intended to apply to cases in which it might be desired to institute proceedings on the part of *Government* against the native officers referred to. There seems little reason to apprehend that the orders in question will be construed to prohibit the magistrates from entertaining *bonâ fide* complaints from individuals, which may be brought forward in regular course against such officers."

TO THE SEVERAL MAGISTRATES AND INDEPENDENT JOINT MAGISTRATES IN THE LOWER PROVINCES.

No. 61. *Lower Provinces, 26th June,* 1851.

Directing that in cases of boundary disputes in Pergunnahs of which the professional survey has been completed, the thakbust papers and survey maps be sent for and inspected before coming to a decision.

I AM directed by the Court to request that, in cases of boundary disputes in pergunnahs, of which the professional survey has been completed, you will invariably send for and inspect the thakbust papers and survey maps before coming to a decision.

TO THE SEVERAL CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

No. 62. *Lower Provinces, 26th June,* 1851.

Prohibits drawing money for a specific object, and appropriating it, when the object has been otherwise provided for.

THE Court issue the following Circular, by order of Government, as communicated in the Under-Secretary's letter No. 673, dated 28th ultimo :—

"A case having recently occurred in which an officer continued many months to draw a sum of money for a specific object, when that object had been otherwise provided for, and thus appropriated to his own use a sum to which he had no title, inasmuch as it should have been saved to the state, I am directed by the Deputy Governor of Bengal to inform you that the Court of Directors, after severely censuring the conduct of the Officer in question, have intimated that any such delinquencies will in future be punished by dismissal from the service of Government."

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE REGULATION AND EXTRA-REGULATION PROVINCES.

No. 63. *Lower Provinces, 7th July, and Western Provinces, 15th August,* 1851.

Directing that, in attesting powers of attorney, names invariably be signed in full.

I AM directed by the Court to request that, in attesting powers of attorney in future, you will invariably sign your name in full.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Western Provinces, 4th July, and Lower Provinces, 16th July, 1851.

No. 64.

Modifying Construction No. 1349, regarding jurisdiction of criminal courts to interfere with moveable property.

In modification of Construction No. 1349, the Courts of Nizamut Adawlut for the Presidency and North-Western Provinces have held that the criminal Courts can only have jurisdiction to interfere with possession of moveable property, when it has been acquired under circumstances which would authorise the laying of a direct criminal charge—such as theft, or fraud, or criminal trespass, and the like. The words "illegal and forcible dispossession" used in the Construction, imply a power in the magistrates to assert, on more general grounds, the title of any party to possession of moveable proporty,—a power which, in the opinion of the Courts, cannot legally be exercised by them.

TO THE SESSIONS JUDGES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 17th July, and Western Provinces, 15th August, 1851.

No. 65.

Communicating instructions how to proceed in forwarding a report under Circular Order, No. 106, dated the 18th March, 1842, and Section 5, Act XXXI. of 1841, for the orders of the Court.

With referrence to the Circular Order, No. 106, of March 18th, 1842, and the provisions of Section 5, Act XXXI. of 1841, I am directed to desire that, whenever you may have occasion to forward a report under the Circular Order in question, together with the record of a case, for the orders of this Court, you will, in the first instance, communicate a copy of your intended report to the magistrate, or other officer, whose order you wish to bring under the Court's notice, with a view to that officer submitting such explanation of the nature and grounds of his proceeding as he may think proper to offer.

Should you, on receipt of this explanation, continue to think it necessary that the case should be laid before this Court, you will then attach the explanation of the magistrate, or other officer, to your report, with any remarks in regard to it which may seem to you to be material.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower and Western Provinces, 18th July, 1851.

No. 66.

Communicating Advocate General's opinion regarding the jurisdiction of justices of the peace in cases of assault by one European British subject upon another European British subject.

In continuation of the Circular Order, No. 44, dated Lower and Western Provinces, the 28th September last, regarding the jurisdiction of mofussil magistrates in cases of assault by one European British subject upon another European British subject, the Court publish, for general information, an extract from a letter communicating the Advocate General's opinion, concerning the jurisdiction of justices of the peace in the same cases:—

"I am of opinion that a justice of the peace, acting in that office only, has no judicial power where a charge for an assault is preferred by one British subject against another British subject, and that he can only commit the party, if he think fit so to do, for trial by the Supreme Court."

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 25th July, 1851.

No. 67.

Forwards Court's Resolution rescinding Construction No. 819, regarding review of criminal orders.

I am directed to forward to you, for your information, the following Resolution recorded by the Court on this date, rescinding Construction No. 819.

RESOLUTION.

The Court rescind Construction No. 819, and resolve that when review of a criminal order passed by a judge of the Court, present at the time of the application, is applied for, it shall be disposed of by him, without reference to the other judges of the Court. If the application be for review of an order passed by a judge absent on leave, or no longer attached to the Court, the provisions of Section 17, Regulation XXV. of 1814 shall be the rule of procedure.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 26th September, 1851. No. 68.

Communicating instructions regarding the discretionary employment of pleaders on behalf of Government in criminal trials which may be thought especially to require it.

THE Court promulgate the following instructions, contained in a letter No. 446, dated 22nd May last, from Mr. Secretary Halliday to the address of the Secretary to the Government of Bengal, for observance by the magistrates regarding the discretionary employment of pleaders on behalf of Government in criminal trials, which may be thought especially to require it. All instances of pleaders being so employed, with the fee settled in each case, are, until further orders, to be reported by the magistrate through the sessions judge for the Court's information.

"The President in Council directs me to observe that the employment of a Government pleader in criminal trials in the session Courts, does not appear to be thought necessary by the Sudder Court, except in cases in which, under the Act of 1850, pleaders may appear on the part of prisoners. These cases may be expected to be few, and it will probably be only prisoners of some pecuniary means who are found to take advantage of the Act. But to prisoners of such means, the President in Council doubts if it would in the main be safe to oppose such vakeels as could be retained for the very small salary of 15 rupees a month, and it may at all events hardly seem necessary to pay these vakeels all through the year for services which will perhaps be seldom called into action.

"Until, therefore, the extent of the operation of Act XXXVIII. of 1850, is better known, the President in Council is of opinion that it will be sufficient to empower the magistrates, under proper checks, to employ good pleaders on behalf of Government in any particular cases which may be thought especially to require it, and to pay a suitable and sufficient fee on every such occasion for the service performed."

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 29th September, 1851. No. 69.

In pursuance of the orders of Government, prohibiting the practice of receipt by public officers of complimentary addresses from parties with whom they have been officially connected.

IN pursuance of the orders of Government, dated 18th instant, No. 2056, it is notified, for the information and guidance of all public officers, that the practice of receipt by them of complimentary addresses from parties with whom they have been officially connected, is objectionable, and should be discontinued. The servants of Government ought to look to their official superiors for praise when they deserve it, and not to those over whom they are placed in authority.

TO THE SEVERAL CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

No. 70.

Lower Provinces, 14th November, 1851.

Instructions (in rescission of Circular Order, No. 15, dated 7th July, 1848,) as to the course to be pursued in cases of defective commitments.

THE Court issue the following Circular Order in rescission of No. 15, dated 7th July 1848.

2. They are of opinion that there is nothing either in the spirit or the terms of Act XXXI. of 1841, which restricts the sessions judges from directing the re-commitment of a prisoner upon a higher or different charge from that on which he is arraigned, as they consider to be suitable to the facts proved by the evidence in the case.

3. The usual, and by far the most frequent occasion, for the alteration of charges by a sessions judge will arise on his first taking up a case, and "comparing carefully the written charge on which the prisoner is committed with the facts of the case, as stated in the magistrate's *roobukaree* of commitment," as set forth in paragraph 2 of Circular Order, No. 135, dated 22nd February 1833. If, however, the alteration should be required to be made upon the facts of a case, as derived from the evidence taken and well established before the sessions judge, (this being a power to be exercised only on the plainest and strongest grounds), the proceedings in the trial should at once be stopped, and the case remanded to the magistrate with the necessary directions for a fresh commitment. This latter mode of procedure will of course never be followed after the defence has, at the close of the evidence for the prosecution, been taken from a prisoner on the charge as laid against him by the magistrate.

4. Reference is directed to Constructions No. 782, (dated 12th April, 1833,) and No. 1122, (dated 29th December, 1837,) the former of which declares that the commitment may be cancelled in a case which the magistrate has power to dispose of, and the latter rules that a commitment cannot be cancelled merely on the ground of the evidence shown in the calendar appearing insufficient for conviction. In cases* too in which a magistrate is at liberty to exercise his discretion in bringing the accused to trial in the sessions court, the sessions judge cannot cancel the commitment, because he differs in regard to the tribunal before which the case should be brought, but the special reasons inducing commitment should be assigned by the magistrate, otherwise it will be liable to annulment.

5. There are various Circular Orders†, which prescribe rules for the proper framing of charges, due attention to which, on the

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* See Circular Orders, No. 53, dated 12th June, 1840, and No. 102, dated 25th February, 1842.

† Circular Order, No. 54, dated 16th July, 1830, paras. 15, 16, 17 and 18.
No. 98, dated 23rd March, 1832.
No 190, dated 15th January, 1836, para. 13.
No. 200, dated 8th July, 1836.
No. 10, dated 23rd July, 1847.

part of the magisterial authorities, with a thorough scrutiny of all the facts of the cases sent up by them for trial, should prevent the occurrence of errors in the drawing of commitments.

6. In modification of the Circular Orders as at foot* the Court direct that reports be not hereafter made to them when a commitment is cancelled by sessions judges. The judges will exercise their discretion on this point, as in other parts of their duties, on their own responsibility, though they may of course make any special report to the Court, which they may, in particular instances, think necessary for its information.

TO THE CRIMINAL AUTHORITIES IN THE REGULATION AND NON-REGULATION PROVINCES.

Western Provinces, 11th April, 1850, and Lower Provinces, 21st November, 1851.

No. 71.†

Instructions for the classification of miscellaneous offences in the magistrate's monthly statement, No. II, part I.

THE attention of the Court has been drawn to the great want of regular and legal specification and classification of miscellaneous offences in the magistrate's monthly criminal statement No. II, part I. They, therefore, publish the subjoined list of miscellaneous offences, which was circulated by the Western Court with their Circular Order, No. 36, of 11th April, 1850, for general observance from the 1st January, 1852.

2. The proper arrangement of this class of offences is a very important matter, to which magistrates must, in the preparation of the statement No. II, part I., direct their personal attention, and class each offence under its appropriate heading. Likewise the sessions judges are required to subject the statement in question to close examination, and to call upon the magistrate for a general and succinct description of the several cases which may be placed by him under one head, should they have reason to suppose that their classification is incorrect and vague.

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* Paragraph 19, Circular Order, No 54, dated 16th July, 1830.
No. 111, dated 20th July, 1832.
Rule 12 of Circular Order, No. 98, dated 12th June, 1842.

† The corresponding Circular of the Western Court being, with the exception of the first paragraph, which was not adopted by the Calcutta Court, embodied in this Circular, is omitted from this Edition. The first paragraph referred to, is—

"The Court of Nizamut Adawlut, North-Western Provinces, having had before them the returns to their Circular No. 83, dated the 23rd January last, issued with a view to the adoption of a uniform classified schedule of miscellaneous offences in the magistrate's monthly criminal statement No. II, part I., are pleased to publish the subjoined list of miscellaneous offences for general observance."

3. The following paragraphs 2, 3 and 4 from the Western Court's Circular, No. 36, of 11th April, 1850, above referred to, are published, that the directions therein contained may be duly attended to by the magistrates and sessions judges subordinate to the Presidency Court :—

(2). " The offences have been arranged and numbered alphabetically and in their entries in the column of 'description of crimes, in the statement under reference,' magistrates will be careful to use the terms here applied to each offence, citing marginally the letter and the number belonging to it."

(3). " Whenever a magistrate may think it impossible to bring any particular offence under any one of the definitions now published, he will make use of such additional specification as he may think appropriate, reporting the same briefly to the sessions judge in sending up his monthly statements. The sessions judge will either note his approval in submitting them to the Nizamut Adawlut, or will direct the magistrate to alter the specification as he may think fit. But whenever a new definition, not included in the list now published, is made use of, it should be written in red ink."

(4). " The schedule now published will probably be found imperfect, offences may be brought forward not sufficiently indicated in it. But the Court have no doubt that if magistrates and sessions judges will give their attention to define carefully any such exceptions, the list will ere long be perfected without difficulty. Sessions judges are requested in their annual reports to note what new specifications of crime it has been found necessary to adopt, and the Court propose to publish an amended schedule, should such be found necessary, after receiving the suggestions of the judges **with the annual statements of the current year.*"

NOTE.—See No. 82 of this Vol.

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* The words in Italics were not adopted by the Calcutta Court.

SCHEDULE OF MISCELLANEOUS OFFENCES.

OFFENCES.

A.

Nos.

1. Abkaree Laws, breach of
2. Abduction of married females.
3. „ of unmarried females.
4. Abortion, procuring
5. Abusive language.
6. Affray, simple
7. Aliens, breach of laws relating to
8. Assault, petty
9. Attempts to commit any of the offences detailed in this Statement.*

B.

1. Bad livelihood.
2. Boats, building, without licence, prohibited
3. Breach of peace.
4. „ „ apprehended.
5. „ of trust.
6. Bribery and corruption.

C.

1. Calumny.
2. Caste, wilfully offending against
3. Cheating.
4. Chowkeedaree cases under Regulation XXII. of 1816, and Act XV. of 1837.
5. Concealment of heinous offences, wilful
6. Confession of a crime, forcibly extorting
7. Conspiracy.
8. Contempt of Court.
9. Contract, breach of, in workmen or servant.
10. Custom laws, breach of

D.

1. Dacoits, belonging to a gang of
2. Destruction or injury of property or cattle, wanton
3. Dhurna.
4. Disobedience of orders in Government servants.
5. Duress, illegal.

OFFENCES.

E.

Nos.

1. Embankments, cutting of
2. Embezzlement.
3. Escape from custody before trial.
4. „ „ Jail of a convict.
5. Aiding and abetting the above two offences.
6. Evading process.
7. Export of arms and Military stores, &c., under Act XVIII. of 1841, breach of laws relating to
8. Exposing infant children.
9. Extortion.

F.

1. False and malicious complaint.
2. „ information, knowingly giving to the Police.
3. Falsification or alteration of papers, not amounting to forgery.
4. Ferry laws, breach of
5. Fraud.
6. Fraudulently appropriating, receiving or concealing property found, on lawaris or stray cattle.

G.

1. Gambling.
2. Gaming-house, keeping a
3. Gunpowder, keeping excess of

H.

1. Harbouring, knowingly, bad characters.
2. Harbouring, knowingly, proclaimed offenders.

I.

1. Illegally wearing the Government Military dress or Government badge.
2. Impressment of coolies, bearers, &c.
3. Incest.
4. Indigo, injuring, by trespass of cattle or otherwise.

* See No. 82 of this Vol.

SCHEDULE OF MISCELLANEOUS OFFENCES.—*(Continued.)*

OFFENCES.

J.

Nos.

1. Jail Discipline, breach of

L.

1. Lotteries, breach of laws relating to

M.

1. Maiming, mutilating or wounding.
2. Maltreatment.
3. Mint laws, breach of

N.

1. Neglecting to support wife and children.
2. Neglect of duty in Chowkeedars.
3. „ „ Police.
4. „ „ Zemindars.
5. Negligence, culpable, by which injury is caused to person or property.
6. Nuisances, offences connected with local
7. „ public or indecent exposure of person.

O.

1. Opium laws, breach of

P.

1. Poisonous or deleterious drugs or substances, administering.
2. Post Office laws, breach of

OFFENCES.

P

Nos.

3. Printing Presses, breach of laws relating to

R.

1. Recognizance, forfeiture of
2. Religion, offences against
3. Rescue, forcible
4. Resistance of process.
5. Riot or tumultuous assemblage or disorderly conduct.
6. Rivers, resisting supervision of

S.

1. Salt laws, breach of
2. Seend Katee, possessing of
3. Seizure of carriage, illegal
4. Slavery, breach of laws relating to
5. Stamp laws, breach of
6. State offences.
7. Suicide, assisting
8. „ attempt to commit*

T.

1. Threatening language or action.
2. Thugs, belonging to a gang of
3. Trespass.

U.

1. Unnatural crimes.

W.

1. Weights and Measures, using false
2. Witness, refusing to give or produce evidence.

* See No. 82 of this Vol.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 24th November, 1851.

No. 72.

Communicating the Resolution of the Supreme Government of India leaving it optional with parties nominated to offices under Government to have the security bonds prepared by their own advisers.

THE Court, under the orders of Government, No. 1704, dated 18th instant, publish for general information, the subjoined Resolution of the Government of India in the Financial Department.

RESOLUTION.

The President in Council has no objection to its being left optional with parties nominated to offices under Government requiring the execution of a security bond, to have that bond prepared by their own advisers. It will be at the discretion of heads of offices to accept such bonds on their own responsibility, or to refer them for approval on the part of Government, to the law officers of the East India Company.

NOTE.—See No. 77 of this Vol.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND WESTERN PROVINCES.

Lower Provinces, 12th December, 1851, *and Western Provinces, 23rd January*, 1852.

No. 73.

Calling attention to the careful and proper framing of charges of embezzlement, under Section 13, Act XIII. of 1850.

I AM directed by the Court of Nizamut Adawlut to call the attention of the magistrates and sessions judges to the careful and proper framing of charges of embezzlement under Section 13, Act XIII. of 1850. The charges, in various instances, which have come before the Court, do not set forth the nature and purpose of the trust, and it is important that the accused should be distinctly informed what trust he is charged with having abused. The distinction between embezzlement and theft being nice, in cases of embezzlement under the Act, a count for theft arising out of the same Act should be added, as a conviction for theft cannot be had in a charge of embezzlement only.

2. The Court are aware that, under Section 14 of the Act above-mentioned, power is given to make any amendments in the charge that may be necessary, and under the recent Circular Order, No. 13, of the 14th ultimo, sessions judges are competent to alter the charge from embezzlement to theft. What the Court desire to point out is that the insertion of both counts in the commitment by a magistrate, and, where this has been omitted, the correction of the

error by the sessions judges, will prevent delay, and enable this Court, on appeal, to deal with either charge, accordingly as one or the other may appear to be the most strictly applicable to the facts of the case.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

No. 74.

Lower Provinces, 17th December, 1851.

Communicating instructions with a view to regulate the manner in which the signatures of witnesses to their depositions should be subscribed on the record.

As the Court of Nizamut Adawlut find it important to regulate the manner in which the signatures of witnesses to their depositions should be subscribed on the record, they direct that no signature, or mark in lieu of signature, of a witness, be attached to the record of his deposition until after such deposition has been read over to him, and *immediately below* such deposition, and that such signature be repeated on every occasion of re-examination of the witness.

2. The Court further direct that, in future, all witnesses to confessions, whether before the police or magistrates, have their expenses paid for attendance on the sessions trial, at the rate laid down in Section 26, Regulation IX. of 1793, as they are generally of a class, to whom the assistance permitted by that law, may be very properly given.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 17th December, 1851.

No. 75.

Rule laid down in the Hon'ble the Court of Directors' despatch, No. 27, dated the 10th July, 1850, (see Circular Order, No. 46, dated 22nd November following,) was not intended to apply to cases of inaptitude for some particular branch of occupation to which a native servant may have been originally appointed and from which it may have been necessary on that account only to displace him.

The Court, under instructions from Government, No. 1597, dated 21st October last, direct me to inform you that the Rule laid down by the Hon'ble the Court of Directors in their despatch No. 27, of the 10th July, 1850, an extract from which was circulated with their Circular letter No. 46, of the 22nd November following, was not intended to apply to cases of inaptitude for some particular branch of occupation to which a native servant may have been originally appointed, and from which it may have been necessary on that account only to displace him.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 14th January, 1852. No. 76.

Report to the Nizamut Adawlut of cancelment of commitments by the sessions judges, dispensed with in future.

In modification of paragraph 19, Circular Order, No. 54, dated 16th July, 1830, of Circular Order, No. 111, dated 20th July, 1832, and of Rule 12 of Circular Order, No. 98, dated 4th November, 1842, the Court direct that Reports be not hereafter made to them when a commitment is cancelled by sessions judges. The judges will exercise their discretion on this point as in other parts of their duties, on their own responsibility, though they may of course make any special report to the Court which they may in particular instances think necessary.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 23rd January, 1852. No. 77.

In continuation of the Circular Order, No. 72, communicating the Resolution of the Supreme Government of India, regarding the preparation and execution of documents connected with the appointments of public servants.

In continuation of their Circular Order, No. 72, of the 24th November last, the Court, under the Orders of Government, No. 106, of the 14th instant, publish for general information, the subjoined Resolution of the Government of India in the Home Department:

RESOLUTION.

The President in Council, with a view to put a stop to the diversity of practice which has obtained in this respect, is pleased to resolve that in future, persons actually in the employment of Government, whether in the Civil or Military Department, shall not be liable to any charge for the preparation and execution of any documents connected with their appointments, which the law officers of the East India Company may be required to draw up by the heads of the offices or departments in which such persons may be employed.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 30th January, 1852. No. 78.

Promulgating Extract from the Government orders regarding

The Court publish for general information the following extract, being paragraph 3 of a letter received by them from the Government, No. 248, dated 23rd instant, regarding the investiture of tehseeldars with police powers, under Regulation XI. of 1831:—

the investiture of tehseeldars with police powers, under Regulation XI. of 1831.

"The enforcement of Regulation XI. of 1831, in a certain pergunnah or district, or the investiture of the tehseeldars in certain pergunnahs, or in a whole district, with police powers, under Regulation XI. of 1831, refers to the locality indicated, and not to the person invested; any tehseeldars holding office in those pergunnahs exercise the powers. Tehseeldars exercising police powers there, when removed to other districts, do not carry the powers with them."

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 25th February, and Western Provinces, 16th April, 1852.

No. 79.

Publishing copy of a letter from the magistrate of zillah 24 Pergunnahs and of the Officiating Advocate General's opinion, on the subject of levying fines on the property of British-born subject.

I AM directed by the Court to transmit for your information and guidance, the accompanying copy of a letter, No. 1415, dated 23rd December 1851, from the magistrate of 24-Pergunnahs, and of the Officiating Advocate General's opinion upon the several points referred to therein.

From the Magistrate of 24-Pergunnahs, to the Register of the Nizamut Adawlut, No. 1415, *dated 23rd December,* 1851.

SIR,

I have the honor to submit the following case for the opinion of the Advocate General.

2. A British subject, of the name of Moran, was fined 400 Rupees by the joint magistrate, Mr. C. W. Mackillop, for an aggravated assault on one Rodrigues, a native of India, under Section 105, Statute 53, George III., Cap. 155. Failing to pay the fine, his property, consisting of a house in Entally, was attached; 15 days' notice of sale was given, and the rights and interests of the defendant Moran in the aforesaid house were finally sold at a public auction to a Mr. Cones, for 1,850 Rupees, which have been duly deposited with Mr. Mackillop, who, I may add, for the Advocate General's information, is vested with the full powers of a magistrate. Moran, however, refuses to give possession of the house, and it is said has put forward a third party to claim it as his own. Under these circumstances Mr. Mackillop has retained the purchase-money in deposit, and applied to me for advice. There are several points involved in the case, however, on which I do not feel competent to decide, and as the consequences

of a mistake may be serious to Mr. Mackillop, and the question of the proper mode of levying fines on the property of British-born subjects is one of general importance, I would solicit the Advocate General's replies to the following queries:

1. In case of conviction under the Statute 53, George III., Cap. 155, Section 105, should the defendant be allowed any time for the payment of the fine, or should the warrant issue against his property, on his failing to pay the amount before he leaves the Court?

2. Has the magistrate any authority in a case under this Section to detain the defendant or take bail for his appearance until he can ascertain whether he is possessed of property within the district, or must he allow him to leave the Court, and take his chance of being able to apprehend him again, if it should eventually turn out that he has no property?

3. Is the magistrate bound to employ the police in searching for defendant's property, or may he commit him at once if the defendant fail to satisfy him before leaving Court that he has property upon which the fine may be levied?

4. Is the process which Mr. Mackillop adopted, necessary or correct; that is to say, is attachment and notice indispensable prior to the sale, and was Mr. Mackillop correct in limiting the sale to Moran's rights and interests?

5. Does the Statute contemplate the sale of real as well as of personal* property? It will be seen that the term employed is general.

6. Is Mr. Mackillop authorised to use force in dispossessing Moran and putting Cones in possession, or should he give the latter a certificate of sale, and leave him to establish his claim to the property in the Civil Court; or generally, in what way under the circumstances, should Mr. Mackillop give effect to the sale?

7. In the event of Cones' failing to obtain possession, would Mr. Mackillop be held responsible for the amount of the purchase-money, which Cones has paid in? If so, would he be justified in retaining the money until the result of these proceedings is known?

I have, &c.,

E. A. SAMUELLS,

Magistrate.

OPINION.

1. In ordinary cases, where the magistrate has authority to impose a fine, and in default of payment, *imprison*, the party convicted is called upon presently to pay, and in default is forthwith committed

* The personal property in this case, was only of the value of 35 Rupees or thereabouts.

to prison. Under the Statute in question, the power to imprison is only given in default of "*property*" *within the district* in which the fine could be levied; so that unless it be at the time of conviction proved before the magistrate, or confessed by the party fined, that he has no property within the district, an attempt to levy by warrant must be made before the magistrate can commit the offender. I think that after conviction and demand of the fine the magistrate may, in default of payment, immediately issue his warrant to levy the fine, and that default will be incurred if the offender, after demand made of payment, shall quit the Court without making payment.

2. I am of opinion that the magistrate has no authority, after conviction passed, to detain the defendant, or require bail for his appearance, till it *be ascertained* whether there be property within the district on which the fine can be levied. He can only take bail under Section 105 in such cases as are therein specified. If, however, it be at the time of conviction proved before the magistrate, or confessed by the offender, that he has no property within the district, the magistrate (after recording the proof or confession last mentioned) may, in my opinion, at once commit for the fine.

3. The offender is, in my opinion, not bound upon conviction to disclose his property, or to declare whether he has property or not, but if he either is *proved* or *confesses* to have no property within the district, he may, as already mentioned, be at once committed. If he be known to have property, or if it be doubtful whether he have any within the district, the magistrate should issue his warrant to levy, and deliver it to his officers for execution in the usual manner. The offender may rebut the proof tendered of his having no property, and give evidence of his having property, to prevent immediate commitment as above, and the magistrate is bound to receive such evidence if tendered, and should call upon the offender to say whether he has anything to offer in contradiction of the evidence of no property.

4. I suppose by attachment is meant a *warrant to levy the fine on the property of the offender within the district*, for that is the only process given by the Statute.

Notice of the seizure and intended sale by public advertisement, and, if practicable, by service on the offender himself, should, in all cases, be given, and seems to me indispensable; and the shortest notice that should be given is such as is requisite in cases of distress for rent or the like.

5. The word "property" is comprehensive enough to include real as well as personal property. It is probable that personal or chattel interests only were contemplated in the framing of the Act; for at that time no British subject could hold real *estate (property)*, except by license. But inasmuch as by the terms of the Charter, real property is subjected to *fieri facias*, and is saleable for debts in execution agreeably with personalty, I am of opinion that in default of sufficient personal property, the warrant of the magistrate to levy under the Act (Statute) in question, may be executed on the *real*

property, if any, of the offender. I am, however, of opinion, that it should be in all cases executed, in the first instance, on the personalty, where any is to be found, for, as the Act makes no provision for the transfer of reality to the purchaser, difficulties may arise as to his title, especially if he sue for possession in Her Majesty's Court. It was correct to sell only the right, title, and interest, (or property) of the offender.

6. The magistrate, or his officer, may deliver over *personal* property, seized and sold under the warrant, to the purchasers; but has no authority to dispossess the party in possession of realty, or to deliver possession of it to the purchaser. He must leave him to recover possession by process of law. It may be that the offender has not the right of possession, but only the right of property. The magistrate should deliver to the purchaser the certificate or other document usually delivered in the Mofussil to purchasers under judicial execution, and there ends his duty.

7. If the executing officer has sold (as he ought) merely *the right, title, and interest of the offender*, the purchaser has no remedy against the magistrate, should that right, &c., prove to be moonshine. The risk of what property may be in the offender lies in the purchaser. Of course, I presume that no assurance of title or interest was held out to the purchaser at the time of sale. The magistrate having given no guarantee of title, can have no right to retain the surplus till title be ascertained.

C. R. PRINSEP,
Offg. Advocate General.

7th January, 1852.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 9th March, 1852.

No. 80.

Communicating instructions regarding the entry, and rendering in the Vernacular of the offence generally designated plundering (Loot-oo-Taraj), which does not a-

THE Court, having had under consideration the description of offence generally designated by magistrates as "plundering" (Loot-oo-Taraj) which does not amount to robbery by open violence, as defined in Clause 1, Section 3, Regulation LIII. of 1803, in consequence of the absence of proof of the *criminal intent* of committing robbery at the time of going forth of the party, which is a necessary ingredient of the foregoing offence as declared in the above Regulation, publish for general information, the following questions, addressed to their law officer, and the futwa delivered by him on the subject :—

Question 1st.

mount to robbery by open violence, as defined in Clause 1, Section 3, Regulation LIII. of 1803.

A number of persons are sent to commit violence in a house, for such a purpose as to beat the owner, or carry some person away by force, or to prevent a marriage or the like. Robberry or plunder of any property from *any person* is not a part of the intention with which they go to the house; but, being there, they seize and forcibly bring away and appropriate to their own use the articles of property they find in the house. How is plunder of this kind, committed *not on any person*, but yet committed openly, regarded by the Mahomedan Criminal Law?—Is it punishable as a crime, and under what head of the Mahomedan Law, and to what punishment is it liable?

State your opinion and name the authorities.

Question 2nd.

State the like opinion and authorities if the property be not carried away and appropriated, but wasted and destroyed?

Answer to the 1st Question.

The offence in question (*i. e.*, plunder of the description mentioned in the question) is a crime under the head of *ghusub*, or usurpation, because *ghusub* in its *literal* sense means the forcibly taking a thing from another, and in *law* it signifies the taking of the property of another, (provided it be capable of being valued and be sacred,)* without the consent of the owner, in such a manner as to destroy the possession of the owner.

If the same is committed knowingly and wilfully, the act is held to be a criminal one, and the offender becomes responsible for a zuman, or compensation; and if it is committed erroneously, the act is nevertheless liable for compensation, because a compensation is the right of man, and it cannot be dispensed with owing to the actor not having wilfully committed the act, but in this case the act will not be a criminal one, as it is only an erroneous offence.

In the above case, the offenders will also be liable to punishment by *tazeer*, at the discretion of the hakim.

Answer to the 2nd Question.

In this case also the offender will be responsible for compensation of the property destroyed and wasted, and liable to punishment by *tazeer*.

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* Sacred property are those which are regarded and respected as such under the Mahomedan Law.

They are the property of Mussulmans, of *Zimmees*, *viz.*, foreigners, who have *permanently* settled themselves under the protection of the Mahomedan ruler, and of *Moostamins*, *viz.*, foreign traders, &c., who have temporarily (for any period under one year) settled themselves under the protection of the Mahomedan ruler.

Quotes a well-known Arabic example to the effect that "whoever shall destroy another's property must be liable for compensation."

2. With reference to the above exposition of law, the Court direct that cases of the foregoing kind, not amounting to dacoity as defined in Clause 1, Section 3, Regulation LIII. of 1803, be entered in part I, Statement No. II, "as riotous assault with forcible plundering or destruction of property, not amounting to dacoity," and that the heading be added under the letter R. to the list specified in Circular Order, No. 71, dated 21st November, 1851.

3. The terms to be used in Oordoo and Bengalee are—

هنگامه و تاخت مع غصبًا لیجانے یا تاراج کرنے مال کے جوآئینًا ڈکیتي نهو

হঙ্গামা করিযা আক্রমন পূর্ব্বক বলে দ্রব্য লূট বা নষ্ট করণ কিন্তু আইন অনুসারে ডাকাইতি নয়।

4. In charging prisoners, should there be doubt as to the exact offence, whether dacoity or the riotous assault with plunder, the Court direct that they be charged on both counts, as that on failure of conviction on the one offence, it may be had on the other.

سوال اول	جواب
اگر کسیکے بهیجنے سے کوئي جماعت	جرم مذکور محسوب است بغصب
کسیکے مکان پر بنظر فساد و هنگامه	زیراکه غصب در لغت گرفتن
مثلاً صاحب خانه کو مارنے یا	چیزیست از غیر بطریق غلبه و در
کسیکو بجبر یکتر لانے یا کسي شادي	شریعت گرفتن مال منقوم که
کے باز رکهنے یا مثال اِسکے جاوے	محترم و معصوم باشد بغیر اذن
اور هرچند که جانے وقت ڈکیتي یا	مالک باین وجه که قبضهٔ مالک
لوٹ کرنا مقصود نهو مگر وهان	ازان زائل شود فی الهدایه الغصب
جانیکے بعد وہ جماعت مکان مین	فی اللغة اخذ الشیئ من الغیر
جو جو اسباب پاوے اوسکو بتعدي	علی سبیل التغلب و فی الشریعة
وهان سے لے آوے اور اپنے مصرف	اخذ مال متقوم محترم بغیر اذن
مین لاوے تو اسطرح کا لوٹ که	المالک علی وجه یزیل یده و حکم
جو متعلق بالذات کسي شخص	آن اگر بعلم و دانستگیست گناهست
کے نهو و خفیة بهي نهو شرعا کیا	و ضمان و اگر بخطاء و بغیر علم است
حکم رکهتا هی آیا وہ شرعا قابل	ضمان است فقط فی الهدایه ثم

* مال محترم آنست که در شرع عزت و حرمت آن مال است چنانکه مال مسلمانان و مال ذمیان رعایا (یعني کسانیکه عهد اطاعت با حاکم اسلام بسته سکونت دایمي دار اسلام اختیار نموده اند) و مال مستامنان

تتمهٔ سوال اول

سزا هی یا نهین اور اگر هی تو کس قسم کے جرم مین محسوب هی اور شرعا کیا سزا واسطے اِس جرم کے هی حسب شرع اِس مسئله پر مع دلائل و براهین کے فتوی لکهئے

تتمهٔ جواب

ان کان مع العلم فحکمه الماثم و المغرم و ان کان بدونه فالضمان لانه حق العبد فلا یتوقف علی قصده و لا اثم لان الخطاء موضوع و در صورت مذکوره بسبب ارتکاب امر غیر جائز مرتکبین لایق تعزیر اند مفوض برای حاکم فی الهدایه ویودب علی ارتکابه ما لا یحل والله اعلم بالصواب فی التاریخ ۷ ماه جنوري سنه ۱۸۵۲ عیسوي

یعني کسانیکه از دار حرب بطریق تجارت یا گدامي حاجت دیگر در دار اسلام آمده کم از یك سال سکونت دار اسلام نمایند و اراده رفتن دار الحرب دارند

مهر قاضي

فضل الرحمن قاضي صدر کلکته

سوال ثاني

صورت مسئله اول مین اگر جماعت منعینه اسباب کو گهر کے نه لے آوے اور اپنے مصرف مین نلاوے بلکه وهین ضایع و پایمال کرکے چلي آوے تو اُس صورت پر بهي فتوای شرعي مع دلایل و براهین کے لکهئے فقط

جواب

درینصورت نیز ضمان مال بر متلف واجب است زیراکه اگر کسي مال غیر را بلا اجازت عمدا یا خطاء تلف نماید شرعا ضمان آن بر متلف واجب میشود من اتلف مال الغیر بغیر اذنه فعلیه الضمان هکذا في جمیع کتب الفقه درینصورت نیز بسبب ارتکاب امر غیر جائز مرتکبین لایق تعزیر اند و الله اعلم بالصواب

مهر قاضي

فضل الرحمن قاضي صدر کلکته

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 19th March, 1852. No. 81.

Promulgating instructions in regard to the disposal of cases of female child-stealing.

THE Court have lately had before them several cases of female child-stealing, referred for their orders under Clause 1, Section 4, Regulation VI. of 1832, the circumstances of which would have admitted of their being disposed of by the district authorities under the provisions of Section 2, Regulation VII. of 1819; they are pleased, therefore, to call attention to the Rules contained therein, and to point out that, whenever the circumstances of the case may clearly bring it within the intent and meaning of the Section of the Regulation above quoted, it should be taken up under it, the charge against the accused being so framed as to correspond with the exact words of the Section; and that, on conviction, the magistrate should either proceed to dispose of the case himself, by passing sentence upon the offender within the limit of Section 19, Regulation IX. of 1807, or if that sentence appear to him inadequate, by committing the case to the sessions judge, in order that he may dispose of it, under the provisions of Section 6, Regulation XVII. of 1817, which have been declared applicable to such commitments.

TO THE SESSIONS JUDGES, MAGISTRATES AND INDEPENDENT JOINT MAGISTRATES, LOWER PROVINCES.

Lower Provinces, 2nd April, 1852. No. 82.

Directing that the entries under No. 9, of letter A. and No. 8, of letter S. in the Schedule of offences, accompanying the Circular Order, No. 71, dated the 21st November last, be struck out of that Schedule, and certain rules observed.

THE entries, under No. 9 of letter A. and No. 8 of letter S. in the Schedule of offences, accompanying the Court's Circular Order, No. 71, dated the 21st November last, *viz.*, "attempts to commit any of the offences detailed in this Statement" and "suicide, attempt to commit," having led to a difference of practice in the entry of attempts to commit offences not specified under the first 41 headings of Part I., Statement No. I., in Statement No. II. the Court direct that those entries be struck out of the number of the offences enumerated under the letters A. and S. of the Schedule above referred to and the following Rules observed:—

2. When there has been *an attempt* to commit an offence not specified under the first 41 headings of Part I., Statement No. I., the substantive offence should be entered in Column 1, Part I., of Statement No. II., and the remaining columns of *that statement* left blank, the attempt to commit being entered in Part II., Statement No. II., in the same manner as if the substantive offence had been one of

those appearing in Part I, of Statement No. I, according to the following exemplar.

3. In such instances, the case of *attempt* will be entered under heading 43 of Statement No. I, but no entry will be made under heading 42 of the same Statement.

No 2.

Part 1, *Detail of heading No* 42, *Statement No I., Part I*

Index	Description of crimes	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
A 6, B 1, S 7,	Affray simple, Bad livelihood, Suicide,	1 5				1 3	1 7			1 7	4		1				1	3	
	Part 2, *Attempts*																		
23, 34, A 6, S 7,	At theft, At Arson At affray simple At Suicide,	5 2 3 1	1	1		3 3 1	3 4 2			3 4 3	1		1 2 2				2 1 1	1 1	1 1
	Total,	11	1	1		7	9			10	1		5				4	2	2

TO THE CRIMINAL AUTHORITIES IN THE REGULATION AND NON-REGULATION DISTRICTS IN THE LOWER PROVINCES AND IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 10*th May, and Lower Provinces*, 26*th May*, 1852.

No 83.

Communicating instructions regarding the entry of persons released on moochulka, taken under Act V. of 1848

I AM desired to inform you, that the Court, having re-considered the Rule contained in paragraph 25 of the Rules for the preparation of the magistrate's Statements, direct its modification as regards persons released on moochulka, taken under Act V. of 1848, who are in future to be entered under the head "Convicted," in Column 11 of Part I, and included in Column 7 of Part VI, of Statement No. I.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 14th May, 1852.

No. 84.

To obviate doubts and misconceptions which are found to exist upon the subject, the Court are pleased to notify that it has been ruled by them, that appeals from the orders of a magistrate maintaining village chowkeedars in possession of the lands set apart for their subsistence, lie, not to the session judge, but to the superintendent of police; and that the same Rule is applicable to appeals from orders enforcing payment of their allowances in money or other kinds.

Notifying, that appeals from orders of a magistrate, maintaining village chowkeedars in possession of the lands set apart for their subsistence, lie not to the sessions judge, but to the superintendent of police, and that the same rule is applicable to appeals from orders enforcing payment of their allowances in money or other kinds.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 31st May, 1852.

No. 85.

With reference to the accompanying Rules, which have been this day promulgated with the approval of Government, regarding the appearance of the Superintendent and Remembrancer of Legal Affairs as Government Advocate in the Nizamut Adawlut, the Court direct the magistrates to make the Government prosecutor or co-prosecutor in all heinous cases, so that there may be no formal defect of power to appear in the Court of Nizamut Adawlut, in the Government Advocate.

With reference to rules which have been promulgated regarding the appearance of the Superintendent and Remembrancer of Legal Affairs as Government Advocate in the Nizamut Adawlut, magistrates directed to make the Government prosecutor or co-prosecutor in all heinous cases.

RULES.

The Court promulgate the following Rules, approved of by Government, as signified in Mr. Officiating Under-Secretary Young's letter, No. 1092, of the 20th instant, relative to the appearance of the Remembrancer of Legal Affairs in the capacity of Government Advocate or his Deputies in the Court, and his relation to the superintendent of police and to the magistrates:—

1. In appealed or referred cases, the Government Advocate shall be competent to appear, and he shall ordinarily appear by himself, or at his discretion, either by the senior or junior Government pleader, on behalf of the Government, in all cases in which Government has been the prosecutor, and in which a pleader is employed for the prisoner. And it shall be further competent to him to make

Rules regarding the appearance of the Government Advocate or his Deputies in Court.

appearance, in like manner, in any appealed or referred case, instituted on the prosecution of Government, in which, although no pleader may have been engaged for a prisoner, it may seem to him, acting in communication with the superintendent of police, or directly with the magistrates, when there may not be time for a reference to the superintendent of police, important that there should be an appearance by a pleader on behalf of the Government.

2. Pleaders, appearing for a prisoner in *appealed cases*, shall be bound to give in to the register's office, at a time not less than one week before the date fixed by the Court for the public hearing of the appeal, a note, under distinct heads, of the pleas of fact and of law on which he rests his appeal, and the register shall cause such note to be transferred to the senior Government pleader. But it shall be competent to such pleader for the prisoner, on leave of the Court, to put in, at the hearing of the appeal, any further pleas of law, which he may desire to argue. The register shall also intimate to the senior Government pleader when a pleader may be appointed on behalf of a prisoner in a *referred* case.

3. The Government Advocate shall, through the senior Government pleader, give immediate notice to the office of the register, when he may intend to appear in a case in which no pleader has been engaged for a prisoner, and the register shall thereupon intimate the same to the judge to whom the case has been submitted, and the judge shall fix such date as he may think suitable for the public hearing and decision of the case.

4. It shall also be competent to the Court to call for the appearance of the Government Advocate, either by himself, or by the Government pleaders, as he may determine, in any case in which, from its special character, they may consider that such an appearance would be manifestly conducive to the better administration of justice.

5. In cases whether referred or appealed, in which there may be an appearance for the Government, as above provided, without the previous employment of a pleader on behalf of the prisoners charged or convicted, the Court shall be competent to nominate a pleader to appear on behalf of the prisoner, and to assign to him such remuneration as it may deem suitable, not exceeding Rupees 200 in any case; such amount to be paid on a contingent bill, under the countersignature of the register of the Court.

Rules regarding the relation of the Government Advocate to the superintendent of police, and the magistrates.

6. The superintendent of police shall give such directions to the magistrates, as he may deem necessary, in order to their apprizing the Government Advocate of the cases, whether referred or appealed, in which it may be thought by them of importance, that there should be an appearance before the Nizamut Adawlut on behalf of the Government, and he will also, in the discretion which belongs to his office, communicate directly with the Government Advocate regarding such cases as he may see fit.

7. The Government Advocate shall, after any communication with the magistrates which he may find necessary, correspond with

the superintendent of police, on the subject of any case in which, whether a pleader shall or shall not have been engaged on the part of a prisoner, it may appear to him unadvisable that he should make appearance in Court, whether by himself or his deputies, on behalf of Government. If after such correspondence with the superintendent of police, an appearance shall still appear inexpedient to the Government Advocate, he may, in his discretion, refrain from appearing, and the case shall then be left to be disposed of by the Court upon consideration of the record, after hearing the pleader for the prisoner, in any case in which such pleader may have been employed.

8. The Government Advocate shall have the power of calling for explanatory information from the magistrates in regard to any case in which under the preceding Rules, it may become his duty to appear, or to consider the propriety of appearing in Court. And he may also, where necessary, solicit information on any point of importance connected with the course and circumstances of a trial, from the sessions judges.

NOTE.—See No. 89.

TO THE CIVIL AND CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

Lower Provinces, 11th June, 1852.

No. 86.

Communicating the orders of Government regarding the employment of contingent and temporary establishments.

I AM directed by the Court to forward, for your information and future guidance, the accompanying copy of a letter, No. 848, dated the 21st May, 1851, from the Under-Secretary to the Government of Bengal, directing, whenever there may be occasion to require the aid of establishments of a contingent and temporary character, the submission, in every practicable case, and when time will admit of it, of a statement of these extra charges, in order that they may be sanctioned by Government before they have been actually incurred.

Copy of a letter from the Under-Secretary to the Government of Bengal, to the Register Sudder Court, No. 848, dated the 21st May, 1851.

SIR,

General. With reference to certain instructions recently received from the Hon'ble Court of Directors through the Financial Department, I am directed by the Deputy Governor of Bengal to

request that the Court, when it may have occasion to require the aid of establishments of a contingent and temporary character, will submit, in every practicable case, and when time will admit of it, a statement of these extra charges, in order that they may be sanctioned by Government before they have been actually incurred.

2. The Court are requested to impress this on the local and subordinate authorities of the department.

I have, &c.,

(Signed) W. SETON-KARR,
Under-Secy. to the Govt. of Bengal.

TO THE SESSION JUDGES IN THE LOWER PROVINCES.

Lower Provinces, 12th July, 1852.

No. 87.

Forwarding extract, paras 1 and 2, from a letter written to the magistrate of 24-Pergunnahs directing the adoption of a form of notification when the services of parties as arbitrators are required by a deputy magistrate.

I AM directed by the Court to forward to you, for your information and for communication to the deputy magistrates, through the magistrate of your district, the accompanying Extract, paragraphs 1 and 2, from a letter, No. 861, dated the 28th ultimo, addressed to the magistrate of 24-Pergunnahs, directing the adoption of a form of Notification when the services of parties as arbitrators are requested by a deputy magistrate.

Extract (paragraphs 1 and 2) of a letter, No. 861, *dated 28th June,* 1852, *to the Magistrate of* 24-*Pergunnahs.*

1. The Court, having had before them your letter, No. 788, of the 24th instant and its enclosures, direct me to inform you that the simplest form for the deputy magistrate to use in notifying a wish to have the services of any party as an arbitrator, is to send a copy of the roobukaree recording consent to arbitration with these words, or a translation of them, written below it—"copy of the above proceeding forwarded to ———————— for his information. The attendance of ———————— is requested at the office of the deputy magistrate on ———————— date" or "he is requested to signify his acceptance of the office of arbitrator by returning this copy, with a note stating such acceptance entered on it, to the deputy magistrate's office———————— date."

2. This copy of proceeding should be authenticated by the deputy magistrate's official seal and signature.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 29th July, 1852.

No 88.

Prescribing rules for the future guidance of the criminal authorities regarding the conducting of criminal trials in sessions courts.

WITH a view to avoid certain anomalies and inconveniences, which have been noticed in the conduct of criminal trials in the sessions courts, and to ensure uniformity of practice, the Court are pleased to prescribe the following Rules for the future guidance of the criminal authorities :—

2. In all commitments for heinous offences, in which the course may be allowed by law, the magistrate will direct the prosecution to be conducted on the part of Government, and will appoint either the Government vakeel or any other respectable person, to act as prosecutor.

3. The trial will be opened in the sessions court by the vakeel of Government, or other persons selected as above, who will read a petition from himself, containing the charge or charges upon which the prisoner has been committed, in the same words as have been used in the calendar and roobukaree of commitment.

4. The aggrieved parties will appear among the witnesses for the prosecution, and their evidence will be taken in that character.

TO THE SESSIONS JUDGES IN THE LOWER PROVINCES AND THE CRIMINAL AUTHORITIES IN THE EXTRA-REGULATION PROVINCES.

Lower Provinces, 6th August, 1852.

No. 89.

Prescribing a form of notice to be issued to the Government pleader, of all cases referred or appealed to the Sudder Court, either by the prisoners themselves or by any parties acting on their behalf in the sessions courts.

IN order that Government pleaders may invariably be enabled to act in the mode prescribed by the annexed Rule* circulated to the magisterial authorities by the superintendent of police, I am directed by the Court to request that you will issue a Notice to the Government pleader, in the accompanying Form, of all cases referred or appealed to the Sudder Court, either by the prisoners themselves or by any parties acting on their behalf in the sessions courts, immediately

* "The Government pleaders at the different sessions courts will be instructed by the Government Advocate invariably to apprise the magistrate of the district, or the officer exercising magisterial powers at an out-station, when any case which has been committed to the sessions from their several jurisdictions has been referred by the judges to the Sudder Court, or having been decided by the sessions judge, may have been appealed to the Sudder Court, either by the prisoners themselves in jail, or by any party acting on their behalf in the sessions court."

on your making such reference or forwarding the record of trial on an appeal to this Court.

FORM.

Names of Prosecutor and Prisoners.	Date of conclusion of trial in the Sessions Court.	Date of letter of reference if the trial has been referred.	Date of presentation of Petition of Appeal in the event of an appeal, and date of transmission of the *Appeal Record*.

TO THE SESSIONS JUDGES AND MAGISTRATES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 31st August, 1852.

No. 90.

Criminal authorities directed to refrain from indenting for certain Lithographed Forms, which have been struck off from the List by the Court's orders.

I AM directed to inform you, that the blank Forms Nos. 115 and 116,* having been unauthorisedly added to the list of registered lithographed Forms in the course of the last year, have been struck off from it by the Court's order. You are therefore requested to discontinue the use of them, and to refrain from indenting for them in future.

* 115 Letter to Civil Surgeon.
116 Civil Surgeon's depositions.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND NORTH-WESTERN PROVINCES.

Western Provinces, 31st August, and Lower Provinces, 20th September, 1852.

No. 91.

Publishing Advocate General's opinion regarding the amenability of British officers and soldiers to magistrates, under the Statute 53, George III., Chapter 155.

THE Court publish for general information, the copy of an opinion given by the Advocate General, regarding the amenability of British officers and soldiers to magistrates, under the Statute 53 George III., Chapter 155, with reference to the provisions of Act 4 George IV., Chapter 81 and Regulation XX. of 1825.

ADVOCATE GENERAL'S OPINION.

The Statute 4 George IV., Chapter 81, although it repealed the next or 106th Section of the Statute 53 George III., Chapter 155, leaves the 105th Section unrepealed, and the Regulation XX. of 1825, which was enacted by a subordinate legislature, and in my opinion solely with a view of carrying out the provisions of the Statute 4 George IV., Chapter 81, cannot in any way affect the operation of the Statute 53 George III., Chapter 155.

The Statute 4 George IV., Chapter 81, has been amended and re-enacted by successive enactments, 3 and 4 Victoria, Chapter 37, and the 12th and 13th Victoria, Chapter 43; under the latter Acts the same powers as were formerly conferred upon Courts Martial, distant more than 120 miles from the Presidency, have been continued, but they both contain an express provision that nothing in those Acts contained shall be construed to exempt any officer or soldier from being proceeded against by the ordinary course of law, a provision which leaves the jurisdiction of the magistrates under Statute 53 George III., Chapter 155 and Act No. V. of 1848, and of the Supreme Courts, wholly untouched.

With respect to offences committed by British officers and soldiers, and not falling within the terms of the Statute 53 George III., or Act V. of 1848, I am of opinion that they are only cognizable by the Supreme Courts and by Courts Martial, both of which Courts appear to me to have concurrent jurisdiction over British officers, resident beyond 120 miles from the Presidency.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

No. 92. *Lower Provinces, 24th September,* 1852.

Publishing an amended Bengalee translation of the Bail-Bond in Clause 4, Section 3, Regulation IX. of 1807.

THE Court publish for general information, the following amended Bengalee translation of the Bail-Bond in Clause 4, Section 3, Regulation IX. of 1807.

লিখিতং শ্রীঅমুক সাকিন অমুক কস্য হাজির জামিনি পত্র মিদং কার্য্যঞ্চাগে অমুক সাকিনের অমুক ফরিয়াদী অমুক অপরাধপ্রযুক্ত অমুক সাকিনের অমুকের নামে অমুক জিলার ফৌজদারী আদালতে নালিশ করিয়াছে এবং নালিশের জওয়াব দিবার জন্যে আসামীকে অমুক দিবসে হজুরে হাজির হইবার হুকুম হইয়াছে অতএব আমি স্বেচ্ছাপূর্ব্বক আসামীর হাজির জামিন হইয়া লিখিয়া দিতেছি যে এই মোকদ্দমার নিষ্পত্তির হুকুম হওয়াপর্য্যন্ত আসামী হাজির থাকিবেক যদি গরহাজির হয় তবে তাহার দায়ের জওয়াব এত তঙ্কা দণ্ড সরকারে দিব এতদর্থে হাজির জামিনি পত্র লিখিয়া দিলাম ইতি—

অমুক সন অমুক তারিখ মোতাবেক অমুক—

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 93. *Western Provinces, 2nd October,* 1852.

Directing that in future the term affirmation be rendered "ikrar," in the Vernacular.

THE Court, having observed that the word *hulf*, which means an oath, is frequently misapplied in recording the evidence of witnesses in the criminal courts as the translation of the *affirmation*, substituted for an oath by Act V. of 1840, direct that in future the affirmation be rendered by the corresponding term *ikrar* in the Vernacular.

TO THE SESSIONS JUDGES IN THE LOWER AND NORTH-WESTERN PROVINCES.

Western Provinces, 21st October, and Lower Provinces, 23rd November, 1852. No. 95.

Communicating instructions regarding the preparation of the Sessions Statement No. XI

THE Court, having observed that the Sessions Statement No XI, received from the several districts, is not prepared in an uniform manner, direct me to inform you that the Return mentioned above, should include *all* persons confined in the zillah jails on requisition of security for good conduct or to keep the peace, the total number of whom will therefore correspond with the aggregate of persons shown in Parts IV. and VI., of the magistrate's Statement No. II.

TO THE SESSIONS JUDGES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 26th October, 1852. No. 96.

Sessions judges directed to indicate in future, by a note in the column of Remarks, the number of persons included in the entry in Column 10, Part I, of the Sessions Statement No. I, who may have been discharged without trial

THE Court request that you will in future indicate, by a note in the column of Remarks, the number of persons included in the entry in Column 10, Part I, of the Sessions Statement No. I, who may have been discharged without trial.

TO THE MAGISTRATES OF THE NORTH-WESTERN PROVINCES

Western Provinces, 26th October, 1852. No 97.

Directing submission with the Annual Criminal Statements of two Returns showing the number of persons apprehended and brought to trial during the year and the result

IN order to enable the Court to complete a set of Statements which they have been required to submit annually to the Government, I am directed to request that you will in future forward, with the usual Annual Criminal Statements, two Returns in the accompanying Forms, one showing the number of prisoners in jail during each of the last five years, and the terms of their sentences, and the other showing the number of persons apprehended and brought to trial during the year, and the result of the proceedings. You will be able to prepare the latter Return to a considerable extent from the

of the proceedings.

Statements now in use, but some of the headings in it will require a further reference to be made to the records of your Court.

Prisoners in Jail.

	18 .	18 .	18 .	18 .	18 .
Imprisonment for life, (with labuor with irons,)					
Ditto above 14 years,..					
Ditto 10 to 14 years,..					
Ditto 7 to 10 years,..					
Ditto less than 7 years, ...					
Ditto without labour,..					
Total, on 31st December, ..					
Deaths in the year,..					

TABLE showing the number of persons apprehended and brought to trial in 18 *and the result of the proceedings.*

	OFFENCES.	Total Number of Offenders.	Flogged, Fined or Discharged on Security.	Imprisoned not exceeding 6 Months.	Above 6 Months and not exceeding 1 Year.	Above 1 Year and not exceeding 2 Years.	Above 2 Years and not exceeding 3 Years.	Above 3 Years and not exceeding 4 Years.	Above 4 Years and not exceeding 5 Years.	Above 5 Years and not exceeding 6 Years.	Above 6 Years and not exceeding 7 Years.	Above 7 Years and not exceeding 8 Years.	Above 8 Years and not exceeding 9 Years.	Above 9 Years and not exceeding 10 Years.	Above 10 Years and not exceeding 11 Years.	Above 11 Years and not exceeding 12 Years.	Above 12 Years and not exceeding 13 Years.	Above 13 Years and not exceeding 14 Years.	Above 14 Years and not exceeding 15 Years.	Above 15 Years and not exceeding 16 Years.	Above 16 Years and not exceeding 21 Years.	For Life.	Transportation.	Death.	Total.	Confined as Insane.	Acquitted.
No. 1. Offences against the Person.	Murder,																									
	Wounding with intent to kill,																									
	Suspicion of murder,																									
	Attempt to commit murder,																									
	Homicide,																									
	Affray with homicide,																									
	Assault with wounding,																									
	Attempt to assault and wound,																									
	Suttee,																									
	Suttee, aiding and abetting,																									
	Rape,																									
	Attempt at Rape,																									
	Child-stealing,																									
	Ditto, for the sake of ornaments,																									
	Ditto, for the purpose of selling in slavery,																									
	Poisoning,																									
	Sitting dharna,																									
	Abortion, &c.,																									
	Importation of slaves,																									
	Sale of married women,																									
	Illegal arrest,																									
	False imprisonment,																									
	Torture,																									
	Adultery,																									
	Sodomy,																									
	Riot and assault,																									
	Abduction,																									
	Deserting new-born infants,																									
	Affray,																									
	Resistance of process,																									
	Making away with a person,																									
	Oppression,																									
	Petty assault,																									
	Accusation of kidnapping,																									
	Exposure of infants,																									
	Total,																									
No. 2. Offences against Property committed with Violence.	Dacoity with murder,																									
	Ditto with torture,																									
	Ditto with wounding or personal injury,																									
	Ditto unattended with aggravating circumstances,																									
	River dacoity with murder,																									
	Ditto with wounding or personal injury,																									
	Ditto unattended with aggravating circumstances,																									
	Highway-robbery with murder,																									
	Ditto with wounding or personal injury,																									
	Ditto unattended with aggravating circumstances,																									
	Suspicion of highway-robbery,																									
	Burglary with murder,																									
	Ditto with wounding or personal injury,																									
	Theft with murder,																									
	Ditto with wounding,																									
	Ditto by administering poisonous or stupifying drugs,																									
	Cattle-stealing with murder,																									
	Ditto with wounding or personal injury,																									
	Affray with homicide caused by dispute respecting property,																									
	Ditto with violent breach of the peace, &c.,																									
	Attempt at dacoity,																									
	Ditto at river ditto,																									
	Plunder with violence,																									
	Riot with assault and robbery, &c.,																									
	Suspicion of dacoity,																									
	Attempt of murder of a child with theft of its ornaments,																									
	Total,																									
No. 3. Offences against Property committed without Violence.	Burglary unattended with aggravating circumstances,																									
	Theft, including cattle-stealing,																									
	Receiving stolen property,																									
	Fraud, embezzlement,																									
	Plundering,																									
	Trespass,																									
	Suspicion of theft,																									
	False personation,																									
	Snatching,																									
	Attempt at theft, cattle-stealing, &c.,																									
	Forcibly taking away documents,																									
	Accessory to theft,																									
	Disputes involving claims of property or charge of theft,																									
	Apprehension with suspicious property,																									
	Taking away property, destroying house, &c.,																									
	Attempt at Burglary,																									
	Forcible entry and detainer,																									
	Total,																									
No. 4. Miscellaneous Offences against Property.	Arson,																									
	Attempt at ditto,																									
	Attack and plundering house, &c.,																									
	Killing and maiming other person's cattle,																									
	Damaging crops, &c.,																									
	Total,																									
No. 5. Forgery and Offences against the Currency.	Forgery,																									
	Counterfeiting coin,																									
	Having in possession counterfeit coin,																									
	Total,																									
No. 6. Miscellaneous.	Being at large under sentence of transportation,																									
	Prison-breaking, harbouring and aiding the escape of felons,																									
	Perjury and subornation of perjury,																									
	Riot, sedition, &c.,																									
	Rescue and refusing to aid peace officers,																									
	Felonies not included in above denominations,																									
	Misdemeanors, &c.,																									
	Other offences not included in above,																									
	Total,																									
	Grand Total,																									

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND NORTH-WESTERN PROVINCES.

Western Provinces, 11th and Lower Provinces, 29th October, 1852.

No. 98.

Directing the extension to the criminal department of certain Rules in regard to filed stamps, prescribed by the Circular Order, No. 55, of the 14th May, 1844.

The Court substitute the following Circular Order for Circular Order No. 11, *dated 27th August last:—*

The Court are pleased to direct the extension to the criminal department of the following Rules, in regard to filed stamps, prescribed by* paragraph 4 of Circular Order, No. 55, of the 14th May 1844.

All stamps filed and not liable to be returned, are to be punched.

In old cases, the duty is to be performed by the serishtadar of the zillah court *or magistrate's office*, but under the supervision of the judge *or magistrate.*

In pending cases, the punching is to be effected by the same officer, after decision and before consigning them to the record office.

Stamps which may be now filed, will be punched by the serishtadar or other officer receiving it, and judges *and magistrates, joint, assistant and deputy magistrates* of all grades, when signing the order for filing, are to see that the Rule is observed.

Blank stamps which are filed to make up for deficient value of any petition, &c.

In old cases, such stamps are to be destroyed by the zillah judges *or magistrates*, and a certificate of the fact endorsed on the principal stamp.

In pending cases, the same course is to be followed after decision and before consigning them to the record office.

TO THE CRIMINAL AUTHORITIES IN THE REGULATION AND NON-REGULATION PROVINCES.

Lower Provinces, 29th October, 1852.

No. 99.

Criminal authorities directed in passing sentence upon parties for misdemeanors, or for offences subjecting them to punishment under Section 19, Regulation

THE Court, having had under consideration, on a reference made to it under Regulation X. of 1796, the legality of adding a sentence of labour on conviction by magisterial authorities of parties for misdemeanor, or for offences subjecting them to punishment under Section 19, Regulation IX. of 1807, have intimated in reply that, "whereas by Clause 1, Section 5, Regulation XIV. of 1816, magistrates

* Western Provinces, No. 981, dated 25th May, 1843. The words in Italics were not inserted in the Western Court's Circular Order.

IX. of 1807, invariably to record, whether the imprisonment is to be with or without labour.

can subject prisoners to labour, unless specially exempted from it by the sentences passed upon them, it follows that there can be no impropriety in including labour as a portion of the recorded sentence against them, when it is thought fit that labour should be imposed, and that it is, indeed, preferable that it should be so recorded, as it is by the officer who has had judicial knowledge of the case that the propriety of imposing labour can best be determined."

2. You are directed, in conformity with the principle of the above order, in passing sentence in cases of the nature indicated, invariably to record, whether the imprisonment is to be with or without labour.

TO THE CRIMINAL AUTHORITIES IN THE LOWER AND EXTRA-REGULATION PROVINCES.

No. 100. *Lower Provinces, 6th January,* 1853.

A magistrate may enforce the attendance of a British subject to give evidence in a criminal case, as he would the attendance of any other witness; and under Regulation IV. of 1793, may cause him to be seized and brought before his court, but he has no power to punish him, if he refuse to give evidence. In such case, if the evidence be material, the Government may indict him in the Supreme Court for obstruction of justice.

A tender of expenses with the subpœna, to such witness, if poor, is necessary to secure his con-

THE Court circulate for general information the following questions addressed to the Advocate General, and that Officer's replies to them :—

Questions.	*Answers.*
I. Whether, in the event of a British-born subject, *out* of Calcutta, evading or disregarding a subpœna to attend to give evidence before a mofussil magistrate, the latter can issue his warrant to have the witness brought up for the purpose of giving his evidence, which includes the further question of what power can be exercised, or procedure followed by a mofussil magistrate for the punishment of a British subject refusing to give evidence after being brought before him?	I. I am of opinion that a British subject, resident in the mofussil, is not exempted from appearing as a witness in a criminal case pending in the Courts of the East India Company, and that the magistrate has full power to summon such British subject, who ought to obey such summons and attend; and if this be so, then I think it follows, that the magistrate may enforce the attendance of such British subject, as he would enforce the attendance of any other witness. In summoning a British subject, and in enforcing obedience to such summons, the magistrate should be guided by the law of procedure in his own court, which appears to me to be equally applicable to all persons summoned

Answers.—(Contd.)

by him as witnesses ; and he may therefore, if he thinks fit, and the evidence of the witness is material, proceed under Regulation IV. of 1793, Section VI., and seize the witness and bring him before his court.

I think, however, that the mofussil magistrate has no power to punish a witness if he refuses to give evidence when brought before him ; for although the British subject has no privilege exempting him from appearing as a witness in the Courts of the East India Company, yet he has a privilege, exempting him from punishment by a mofussil court, except in certain cases, and this is not one of such cases.

If the case should ever arise of a British subject refusing to give material evidence when summoned by, or brought before, a mofussil Court, I would recommend the Government to indict him in the Supreme Court for an obstruction of justice. It seems, that an indictment will lie, when the court, whose process is disobeyed, has no power to attach (Russell on Crimes, 497, note 2), and the Supreme Court is bound to take judicial cognizance of the existence of the mofussil criminal courts ; and I therefore think the Supreme Court is bound to punish an offence committed by a British subject, which is an obstruction of justice in such courts. I think, that if it were proved that the evidence of the witness was material, that he was personally served with summons to attend the mofussil court, that he was tendered the usual expenses allowed by such courts, and also-

viction in the Supreme Court.

The appearance in a mofussil court of a resident of Calcutta as witness, may be compelled by warrant endorsed by one of the Judges of the Supreme Court under Act XXIII. of 1840.

beyed the summons, that he would be convicted in the Supreme Court; and I am of opinion that nothing but good would result from the prosecution, even if unsuccessful, inasmuch as it would call the attention of the Legislature to the state of the law on this point.

II. Whether it is necessary, in criminal cases, to accompany subpœnas to British subjects, with a sum sufficient to defray their expenses to and from the court?

II. I am of opinion that the mofussil magistrates should be guided by the rules and procedure of their own court as to the expenses of witnesses, but if the witness is poor, and refuses to attend, the tender of his expenses would, I think, be necessary to secure his conviction in the Supreme Court.

III. How inhabitants of Calcutta, whether British subjects or Natives, can be compelled to appear before the mofussil magistrates to give their evidence?

III. The magistrate should compel the appearance of witnesses resident in Calcutta by warrant regularly endorsed by one of the judges of the Supreme Court, under Act XXIII. of 1840.

No. 101.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 13th January, 1853.

A trial held under Section VI., Act VII. of 1845, for a breach of the Canal Law, will be proceeded with as a criminal trial under the general regulations.

THE Court notify that the mode of procedure, prescribed in criminal trials by the general Regulations, is applicable to trials held under Section VI., Act VII. of 1845, for breaches of the Canal Rules.

Records of cases disposed of under the enactment by officers invested under Section VIII. thereof, with power of joint-magistrate, will be sent at the close of each month to the magistrate of the zillah, who will place them among his records, and enter them in his statements as prescribed in Circular Order, No. 398, 11th April, 1850.

2. The Court further direct, that the records of all cases, disposed of, under the enactment by the officers invested under Section VIII. thereof, with the powers of joint magistrates, be sent by them respectively, at the end of each month, to the magistrate of the zillah, within which their jurisdiction lies, who will place them among the records of his court, and enter the cases in his periodical returns under the heading "Canal laws, breach of," which is to be introduced into the schedule of miscellaneous offences, published with the Circular Order, No. 398, dated 11th April, 1850, in its appropriate place under Letter C.

TO THE SESSIONS JUDGES IN THE LOWER PROVINCES, AND COMMISSIONERS AND DEPUTY COMMISSIONERS, &c., IN THE EXTRA-REGULATION PROVINCES.

Lower Provinces, 26th January, 1853. No. 102.

The information required in the forms of statements Nos. 11 and 13, will be supplied by the criminal authorities, and submitted with the annual criminal statements for 1853.

I AM directed by the Court to forward to you the accompanying forms of statements Nos. 11 and 13, and to request that in submitting your annual criminal statements, for the year 1853, you will give the information required therein, and forward them at the same time with the other prescribed annual statements of that period.

2. Such parts of the forms as apply to magistrates, will be prepared in the courts of those officers, and submitted at the end of the year to you, and you will embody them into one statement, with the particulars of your own Court. Columns 1 and 2 of No. 11 will be filled up by the magistrates, and Column 3 by the sessions judges, while Columns 4, 5 and 6 will be prepared by the Sudder Court; also as regards No. 13, the magistrates and sessions judges will enter such offences as they can respectively pass sentence for, and the statement when received will be filled up by the Court, for those cases which they disposed of: thus one form will contain all the information which it is intended to supply.

FORMS.

No. 11.—*Average duration of Cases referred to the Nizamut or Foujdary Adawlut.*

YEARS.	From apprehension to commitment.	From commitment to reference.	From transference to receipt.	From receipt of reference to sentence.	Total from apprehension.
	Days.	Days.	Days.	Days.	Days.
18 , ...					
18 , ...					
18 , ...					
18 , ...					
18 , ...					

No. 13.—Table showing the number of persons apprehended and brought to trial in 18 *and the result of the proceedings.*

	OFFENCES.	Total Number of Offenders.	CONVICTED. Flogged, Fined or Discharged on Security.	Imprisonment not exceeding Six Months.	Above 6 Months and not exceeding 1 Year.	Above 1 Year and not exceeding 2 Years.	Above 2 Years and not exceeding 3 Years.	Above 3 Years and not exceeding 4 Years.	Above 4 Years and not exceeding 5 Years.	Above 5 Years and not exceeding 6 Years.	Above 6 Years and not exceeding 7 Years.	Above 7 Years and not exceeding 8 Years.	Above 8 Years and not exceeding 9 Years.	Above 9 Years and not exceeding 10 Years.	Above 10 Years and not exceeding 11 Years.	Above 11 Years and not exceeding 12 Years.	Above 12 Years and not exceeding 13 Years.	Above 13 Years and not exceeding 14 Years.	Above 14 Years and not exceeding 15 Years.	Above 15 Years and not exceeding 16 Years.	Above 16 Years and not exceeding 17 Years.	For Life.	Transportation.	Death.	Total.	Confined as Insane.	Acquitted.
No. 1. Offences against the Person.	Murder, ...																									
	Wounding with intent to kill, ...																									
	Suspicion of murder, ...																									
	Attempt to commit murder, ...																									
	Homicide, ...																									
	Affray with homicide, ...																									
	Assault with wounding, ...																									
	Attempt to assault and wound, ...																									
	Suttee, ...																									
	Suttee, aiding and abetting, ...																									
	Rape, ...																									
	Attempt at Rape, ...																									
	Child-stealing, ...																									
	Ditto, for the sake of ornaments, ...																									
	Ditto, for the purpose of selling in slavery, ...																									
	Poisoning, ...																									
	Sitting dharna, ...																									
	Abortion, &c., ...																									
	Importation of slaves, ...																									
	Sale of married women, ...																									
	Illegal arrest, ...																									
	False imprisonment, ...																									
	Torture, ...																									
	Adultery, ...																									
	Sodomy, ...																									
	Riot and assault, ...																									
	Abduction, ...																									
	Deserting new-born infants, ...																									
	Affray, ...																									
	Resistance of process, ...																									
	Making away with a person, ...																									
	Oppression, ...																									
	Petty assault, ...																									
	Accusation of kidnapping, ...																									
	Exposure of infants, ...																									
	Total, ...																									
No. 2. Offences against Property committed with Violence.	Dacoity with murder, ...																									
	Ditto with torture, ...																									
	Ditto with wounding or personal injury, ...																									
	Ditto unattended with aggravating circumstances, ...																									
	River dacoity with murder, ...																									
	Ditto with wounding or personal injury, ...																									
	Ditto unattended with aggravating circumstances, ...																									
	Highway-robbery with murder, ...																									
	Ditto with wounding or personal injury, ...																									
	Ditto unattended with aggravating circumstances, ...																									
	Suspicion of highway-robbery, ...																									
	Burglary with murder, ...																									
	Ditto with wounding or personal injury,...																									
	Theft with murder, ...																									
	Ditto with wounding, ...																									
	Ditto by administering poisonous or stupifying drugs, ...																									
	Cattle-stealing with murder, ...																									
	Ditto with wounding or personal injury, ...																									
	Affray with homicide caused by dispute respecting property, ...																									
	Ditto with violent breach of the peace, &c., ...																									
	Attempt at dacoity, ...																									
	Ditto at river ditto, ...																									
	Plunder with violence, ...																									
	Riot with assault and robbery, &c., ...																									
	Suspicion of dacoity, ...																									
	Attempt of murder of a child with theft of its ornaments,																									
	Total, ...																									
No. 3. Offences against Property committed without Violence.	Burglary unattended with aggravating circumstances, ...																									
	Theft, including cattle-stealing, ...																									
	Receiving stolen property, ...																									
	Fraud, embezzlement, &c., ...																									
	Plundering, ...																									
	Trespass, ...																									
	Suspicion of theft, ...																									
	False personation, ...																									
	Stealing, ...																									
	Attempt at theft, cattle-stealing, &c., ...																									
	Forcibly taking away documents, ...																									
	Accessory to theft, ...																									
	Disputes involving claims of property or charge of theft, ...																									
	Apprehension with suspicious property, ...																									
	Taking away property, destroying house, &c., ...																									
	Attempt at Burglary, ...																									
	Forcible entry and detainer, ...																									
	Total, ...																									
No. 4. Miscellaneous Offences against Property.	Arson, ...																									
	Attempt at ditto, ...																									
	Attack and plundering house, &c., ...																									
	Killing and maiming other person's cattle, ...																									
	Damaging crops, &c., ...																									
	Total, ...																									
No. 5. Forgery and Offences against the Currency.	Forgery, ...																									
	Counterfeiting coin, ...																									
	Having in possession counterfeit coin, ...																									
	Total, ...																									
No. 6. Miscellaneous.	Being at large under sentence of transportation, ...																									
	Prison-breaking, harbouring and aiding the escape of felons, ...																									
	Perjury and subornation of perjury, ...																									
	Libel, sedition, &c., ...																									
	Rescue and refusing to aid peace officers, ...																									
	Felonies not included in above denominations, ...																									
	Misdemeanors, ditto, ...																									
	Other offences not included in above, ...																									
	Total, ...																									
	Grand Total, ...																									

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 29th January, 1853. No. 103.

Mode of framing indictments against receivers of stolen property, with reference to the distinction pointed out in Circular Orders, Nos. 124 and 125, 12th August, 1813, and 25th January, 1819, between the receipt of stolen goods, with a criminal knowledge, and the act of retaining possession of them, after becoming aware, subsequent to receipt, of their having been stolen.

THE Court, having remarked in the monthly statements, several instances in which prisoners, who were apparently guilty of the offence of receiving stolen property, knowing it to have been stolen, were committed to the sessions court for trial on a charge of knowingly keeping stolen property in their possession, which charge does not necessarily imply that the property so retained was received with the knowledge that it had been stolen, deem it expedient to call attention to the distinction pointed out in the Circular Orders, Nos. 124 and 125, dated 12th August, 1813, and 25th January, 1819, respectively, between the *receipt* of stolen goods with a criminal knowledge, which is a *felony*, and the act of retaining possession of them when the knowledge of their having been stolen has arisen subsequently to their receipt, which is a simple *misdemeanor*; and to enjoin greater care and precision, in future, in framing indictments in cases of the kind in question. The Court further observe, that whenever there may be any doubt as to whether the higher or lower grade of offence has been committed, the charge should always be made for the higher grade, on the principle already laid down in paragraph 16 of the Circular Order, No. 54, dated 16th July, 1830.

Whenever a doubt exists as to the higher or lower degree of offence committed, the charge will always be made for the higher degree.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 19*th February,* 1853. No. 104.

Magisterial authorities will receive petitions of appeal against their sentences and orders, if presented within the period of appeal, and sessions judges will pass orders on them notwithstanding the non-appearance of the appellant.

THE Court are pleased to direct that the magisterial authorities, and particularly those of out-stations, receive petitions of appeal against their sentences and orders for transmission to the sessions judge, if presented within the period of appeal; and that the sessions judges pass orders on such petitions, notwithstanding the appellant has not entered appearance by himself or through an accredited mookhtear at the court.

TO THE CRIMINAL AUTHORITIES IN THE NORTH-WESTERN PROVINCES.

No. 105.

Western Provinces, 2nd March, 1853.

Error in the rendering of the words "capital cases" in the 2nd paragraph of Circular Order of 28th December, 1850, in the translation published in the *Agra Government Gazette*, corrected.

THE Court request, that an error which has been brought to their notice in the translation, published in the *Agra Government Gazette* of the 7th January, 1851, of their Circular Order, No. 1906, dated 28th December 1850, may be corrected by the substitution of the words مقدمات قابل حکم قتل for the words جرایم کبیرہ as the rendering of the words "capital cases" in the 2nd paragraph.

TO THE SESSIONS JUDGES IN THE LOWER PROVINCES AND CRIMINAL AUTHORITIES IN THE EXTRA-REGULATION PROVINCES.

Lower Provinces, 26th April, 1853.

No. 106.

Form prescribed for the annual criminal report of the current and future years, which will be submitted on or before the 1st February of every year, after they become due.

I AM directed by the Court to request, that you will prepare and submit the annual criminal report of your district, for the current and future years, in the form annexed, which is framed so as to show the exact state of the files under each head at the close of the year reported upon, the amount of business transacted generally by all the officers exercising criminal powers, the proportion of convictions and commitments to acquittals in heinous crimes, and the general analysis of acquittals, the number and results of the commitments and appeals before the sessions judge, the average duration of cases and the periods of detention of witnesses.

2. The report must invariably embrace the opinion of the sessions judge and the magistrate, in regard to the official character and qualifications of the several joint magistrates, deputy magistrates and assistants, covenanted or uncovenanted, employed in the district under your control.

3. Any general observations, which you, or the magistrate, may have to offer on the results exhibited in the statements, or on the criminal administration generally, should be appended to the report prepared in this form.

4. The above report, and the annual statements connected therewith, must be forwarded to this office on or before the 1st of February of every year after they become due.

FORM OF ANNUAL CRIMINAL REPORT.

No.

To the Register of the Nizamut Adawlut.

Sir,

With reference to the Court's Circular Order, No. 3, dated the 26th April last, I have the honor of submitting the annual criminal statements of this district for the past year, together with a report drawn up in the form therein prescribed.

2. The office of magistrate was held by Mr. ———— during the year ————

3. There were for trial, during the year, the cases of ———— persons, all of which, with the exception of those (———— in number), of ———— remained undisposed of at its close: ———— of these had been pending beyond three months for the reasons given in the margin. Of ———— suits under Act IV. of 1840, for trial during the same period, all, with the exception of ————, were disposed of on the 31st December, ———— of these had been pending more than three months for the reasons given in the margin.

[Here enter the magistrate's reasons.]

[Here enter the magistrate's reasons.]

(*Here any explanations.*)

4. Statement 6, column 10 showed only ———— cases in arrear. All the appeals, excepting ————, pending ———— from the orders of the assistants subordinate to the magistrate, were disposed of during the year.

(*As above.*)

5. The diary of attendance of witnesses is

(*As above.*)

6. The convictions, commitments and acquittals in heinous crimes,* as exhibited under the first forty-one headings of Statement No. I, Part I., are shown in the margin. The general analysis of acquittals is similarly shown.†

	185	185
* Convicted, ...		
Committed, ...		
Acquitted, ...		
† Summoned by the Magistrate and his Subordinates, ...		
Sent in by the Police, ..		
Released on Bail by ditto, &c,		
On Default, ...		
„ Compromise, ...		
„ Recognizance, ...		
Unconditional, ...		

(*As above.*)

7. Statement 8 gives the following results:—

	Col. 7	Col. 12
185 , ————	Days,	———— Days.
185 , ————	Days,	———— Days.

(As above.)

8. The result of the appeals from the orders of the assistants, preferred to the magistrate, is shown in the margin.

	Rejected.	Confirmed.	Reversed.
Mr ——— Assistant, ordinary powers, . ..			
Mr. ——— Deputy Magistrate, full powers, ..			
Mr ——— Deputy ditto, at ——— ditto ditto,			
Baboo —— Deputy Magistrate, Sudder Station, with ordinary powers, ..			
Moulvee ———— Law Officer, special powers,			
Total, ...			

(As above.)

9. Mr. ————, the magistrate, has made mention of the officers subordinate to him in the following terms. [Here embody the magistrate's report regarding the assistants.]

*	Rejected.	Confirmed	Reversed.
Regular Appeals, ...			
Appeals under Act IV. of 1840, ...			
Miscellaneous appeals, ...			
Total, ...			

10. The results of the appeals* and commitments† to the sessions court are shown in the margin.

†	Cases.	Persons.
Convicted, ...	....	
Referred, ...	....	
Acquitted, ...	....	

(As above.)

11. In regard to the several magisterial authorities, I have to report.

(Here give the opinion of the sessions judge.)

12. Mr. ———— was sessions judge during the year. Out of ———— commitments and ———— appeals for

trial during the year, Mr. ——— decided ——— of the former and ——— of the latter, leaving at the close of it, ——— commitments and ——— appeals under trial.

TO THE MAGISTRATES AND JOINT MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 14th June, 1853.

No. 107.

I AM directed by the Court to forward to you, for your information and guidance, extract (paragraph 3) of a Resolution (No. 376, dated the 30th March last,) recorded on the annual criminal report and statements relating to the administration of criminal justice in the district of Nuddea for the past year, and of copy of the magistrate's letter, (No. 210, dated the 6th instant) addressed to the sessions judge of that district received in reply thereto.

Notice may be served on the defendants in a petty criminal case at the time of its institution, to give them opportunity of showing cause why they should not be summoned. This notice does not supersede the process prescribed by law for procuring attendance of accused persons.

2. The Court direct me to call your attention, and through you, of your subordinates, to the practice observed by Mr. Montresor in dealing with accused parties in petty criminal cases. This *notice* to the accused, you will observe, is not compulsory, nor does it in any way supersede the processes prescribed by the law for procuring the attendance of accused persons, if they do not attend voluntarily; but it may be of obvious advantage to give to a defendant, or to one of several defendants, the option of being present on the first taking of evidence upon a charge.

Extract (Paragraph 3) from a Resolution of the Presidency Nizamut Adawlut, No. 376, dated 30th March, 1853.

" The general analysis of acquittals is given in the margin. It is decidedly more satisfactory than in many other districts. The magistrate will report, through the sessions judge, on the causes which, so far as he may have been able to ascertain them, have led to so considerable a reduction in the number of persons acquitted, after having been summoned by the magistrate and the officers subordinate to him."

	1851.	1852.
Summoned by the Magistrate and his subordinates, ...	630	343
Sent in by the Police, ...	60	233
Released on Bail by Police, &c.,	183	180
	973	756
On default, ...	5	11
„ Compromise, ...	44	61
„ Recognizance, ...	57	0
Unconditional, ...	867	684
	973	756

Copy of a letter from the Magistrate to the Sessions Judge of Nuddea, No. 210, *dated the* 6*th June,* 1853.

SIR,

With reference to the 3rd paragraph of Resolution No. 376 of the Presidency Court of Nizamut Adawlut, under date the 30th March last, I have the honor to state, for the information of the Court, that the diminution in the acquittals of defendants summoned by the magistrate and his subordinates has arisen in this wise.

The greater number of defendants formerly acquitted were those brought to trial in petty cases, in which probably some eight or ten defendants were named by a prosecutor and witnesses, and subsequently summoned. On the defendants being present and being unable to give some satisfactory defence, the case terminated in the acquittal of a large number of persons; for this reason the officers subordinate to this Court have been instructed by me to give the defendants an opportunity of appearing to answer the charge by notice served on them at the time of the institution of the suit, and the effect has been that some one or two of the defendants generally appear and show cause why a large number of the defendants named should not be summoned. This is the only, and I believe the direct, cause for the reduction in the number of acquittals.

I have, &c.,
C. F. MONTRESOR,
Magistrate.

TO THE SESSIONS JUDGES IN THE LOWER PROVINCES AND CRIMINAL AUTHORITIES IN THE EXTRA-REGULATION PROVINCES.

No. 109. *Lower Provinces,* 15*th July,* 1853.

It is not necessary to charge a party with being an accomplice, when he is charged with being a principal in a crime.

I AM directed by the Court to forward to you for your future guidance, the accompanying Extract, (paragraph 3) of a letter, written by their order, on this date, to the sessions judge of Beerbhoom, in which it is held that it will not be necessary to insert a count charging a party with being an accomplice, when he is charged with being a principal in the crime.

Extract, paragraph 3, *of a letter, No.* 798, *dated the* 15*th July,* 1853, *to the Sessions Judge of Beerbhoom.*

3. Although, with reference to the distinctions made by the Mahomedan Law, a Futwa may occasionally be delivered, distinguishing

the acts of accomplices from those of the principal in a crime, the Court observe that there is no occasion to insert a count charging a party with being an accomplice, when he is charged with being a principal in the crime.

TO THE CRIMINAL AUTHORITIES, NORTH-WESTERN PROVINCES.

Western Provinces, 22nd August, 1853.

No. 110.

It is not necessary to charge a party with being an accomplice, when he is charged with being a principal in a crime.

THE Court desire to notify, for general information, that when a party is charged with being a principal in a crime, it is not necessary to charge him in a second count with being an accomplice in the same.

TO THE SESSIONS JUDGES AND MAGISTRATES IN THE LOWER PROVINCES.

Lower Provinces, 31st August, 1853.

No. 111.

Magisterial authorities will, in their calendar of commitments, under the columns of circumstantial evidence, classify witnesses according to the nature of their evidence, indicating by a heading in red ink the subject to which the witnesses are expected to testify.

They will also, with the calendar, when more than one prisoner is included in it, submit an additional statement in the form pre-

I AM directed by the Court to request, that the following instructions may be carefully followed in future, in all cases of commitments and referred trials, to which they may be applicable.

1. The Magistrates in the calendar of commitment, under the columns of circumstantial evidence, will classify the witnesses according to the nature of their evidence, indicating by a heading in red ink the particular subject-matter to which the witnesses are expected to testify. It is of course impossible to lay down rules to meet every case, but the specimen given in the margin, as taken from a Midnapore calendar, where this practice has been adopted by the magistrate, will sufficiently show the nature of the classification required.

Circumstantial Evidence.

Examined witnesses Nos. 5, 6. Heard a noise, and on going to plaintiff's house found him lying wounded.

Ram Doss.
Joynarain.

Examined witnesses 7, 8, 9. Saw prisoners 2, 3, 4 near the village on the evening previous to the dacoity.

Petamber Sain.
Issurchundur.
Bhurut Naik.

2. In addition to the calendar and other documents, now sent to the sessions judge on a commitment, the magistrates will, whenever more than one prisoner is included in the calendar, prepare a statement in the tabular form, marked A, sent herewith, filling up care-

scribed, which will form part of the nuthee in all cases referred to, or called for by the Court.

fully such of the columns as may be necessary in the particular case from the evidence taken before themselves and the police. The sessions judge, who tries the case, will fill up the third comparative column from the evidence given before him, and in all cases, either referred or appealed to, or called for by the Court, this statement will form part of the nuthee.

In referred cases the sessions judge will note in red ink, in the margin of his report, the name and number of the witness to whom he may refer.

3. In cases referred to the Court, the sessions judges are directed to insert in red ink in the margin, the name and number of the witness or witnesses to whose evidence they are alluding in their report.

The sessions judge will, in his English decision and report on criminal trials, confine himself to a clear and concise statement of the case, concluding with the reasons on which his judgment is formed, and will avoid all lengthy recapitulations of evidence.

4. The Court take this opportunity to point out to the sessions judges, that in their English decisions and reports on criminal trials, they should endeavour to confine themselves to a clear and concise statement of the case, concluding with the reasons on which their judgment is formed. All lengthy recapitulation of evidence should be avoided, and in the narration of the facts, reference should be made marginally to the several witnesses by whom the facts, in their proper order, are established in evidence. Due attention to these remarks will ensure a considerable saving of time to both the sessions judges and the Court.

ore the Police Magistrate and Sessions Judge.

7.	8.			9.	10.			11.			12
Witnesses to confession at the Foujdaree.	Circumstantial Evidence.			Number of articles of property found in each Prisoner's house or possession.	Witnesses to identification of stolen property.			Witnesses to the finding and search for stolen property.			Specification and Number of articles of property recovered.
Before the S. Judge.	Before the Police.	Before the Magistrate.	Before the S Judge		Before the Police.	Before the Magistrate.	Before the S Judge	Before the Police.	Before the Magistrate	Before the S. Judge.	
7 8	.....	18 1 4	18 1 4	From No. 1 to 22	14 15 16	14 15 16	14 15	1	1 4 5 6 10 11 12	1 4 5 10 11 13	1. Bala Unchla Saree. 2. Mote Unchla Saree 3 Buchkanee Kusta 4 Dhotee. 5. Bookool Unchla Saree 6. Loll Bakra Saree 7. Zurud Saree 8. Kheer Sukur Saree 9. Phool Para Saree 10. Shurlee Soondree Saree 11. Kusta Saree. 12 Ditto 13 Sada Dhotee. 14. Ekpatta.
7 8	1	18 1 4	18 1 4	.....	14 15 16	14 15 16	14 15	1	1 4 5 6	1 4 5	15. Ditto. 16. Kobna Ekpatta. 17. Kusta Saree 18. Dhotee. 19. Busta. 20. Saree. 21. Chadur. 22 Markin Chadur.
8	.	18 1 4	18 1 4	.....	14 15 16	14 15 16	14 15	1	1 4 5 6	1 4 5	

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 28th September, 1853.

No. 112.

I AM directed to forward, for your information and guidance, copy of the accompanying correspondence with the Board of Revenue.

Course to be pursued by a magistrate in requiring collectors to attach the lands of absentees, under the provisions of Regulation XI. of 1793.

From the Officiating Secretary to the Board of Revenue, to the Register of the Sudder Dewanny Adawlut, No. 199, *dated the* 13*th September*, 1853.

SIR,

I am directed by the Board of Revenue to request, that you will ascertain the Court's opinion as to the degree of precision which should be observed by magistrates, in requiring collectors to attach the lands of absentees under the provisions of Regulation XI. of 1796.

LAND REVENUE.
H. Ricketts, and E. Currie, Esqrs.

2. The requisition is peremptory on the revenue authorities, but it is often couched in very vague, terms in consequence of the magistrate being ignorant of the nature and extent of the property which he wishes to be attached. It may happen that no such name as that of the proclaimed absentee is to be found on the collector's books as joint proprietor in the estate named by the magistrate. His name may not be found on the collector's books at all, either as the recorded proprietor of any estate or as paying in any portion of its revenue. The course which should be taken by the collector under such circumstances is not clear.

3. The Court will observe from the correspondence with the Commissioner of the Jessore Division, annexed* in the copy to this letter, that in order to ensure the fullest co-operation of the revenue with the police authorities, they have in a case in which the collector hesitated to attach, on indefinite information, prescribed mofussil inquiry on his part. But though the law gives him power to conduct such inquiry, the Board doubt, whether the collector can or ought to be held responsible for the consequences of acting on its results. The investigation is one for which the magistrate has all the necessary agency: and that the responsibility of identifying an absentee's property should rest with him, seems but a reasonable check on the power which he has of issuing a precept to the collector.

4. Should the Court take this view of the duty of the magistrate, the Board will refrain hereafter from issuing such instructions as those

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* Not published.

just noticed. They will, however, take care that collectors cordially co-operate with the magistrates to the full extent permitted by their records or by the information they may otherwise have acquired.

I have, &c.,

A. GROTE,
Officiating Secretary.

From the Register of the Sudder Dewanny Adawlut, to the Secretary to the Board of Revenue, No 1693, *dated the* 28*th September*, 1853.

SIR,

I am directed by the Court to acknowledge the receipt of your letter, No. 199, dated 13th instant, with its enclosures, and in reply to communicate the following observations for the information of the Board.

SUDDER DEWANNY ADAWLUT.
Present
Sir R Barlow, Bart,
J R Colvin, and J Dunbar, Esqrs } Judges.
and
A J M Mills, and H T Raikes, Esqrs } Officiating Judges.

2 The Court are of opinion that it is incumbent on the collector to afford to the magistrate, upon a precept to that effect received from him, all the information that he may possess or can procure, in order to assist the magistrate, in identifying and specifying the lands or property, the attachment of which the magistrate may be desirous to order. This duty of the collector is therefore preliminary to the issue of an order for attachment by the magistrate, who on the receipt of the necessary information would issue judicial directions on the subject. The duty of the collector, upon the receipt of these directions, would consist solely in taking possession of the lands or property specified by the magistrate and managing them to the best advantage until further orders.

3 I am directed to add, that the objections of third parties to the attachment of lands of which the collector takes possession, on the direction of the magistrate, should be preferred to the magistrate who has given the order for the attachment, from whose orders an appeal lies of course to the superior criminal courts. So also any resistance to the proceedings of the collector in taking possession of the property would be a resistance of the process of the magistrate and punishable by him.

I have, &c,

C. T. BUCKLAND,
Register.

TO THE CRIMINAL AUTHORITIES IN THE LOWER PROVINCES.

Lower Provinces, 18th November, 1853.

No. 113.

When a magistrate shall have occasion to tender a conditional pardon, under Clause 3, Section 3, Regulation X. of 1824, he will, if it be accepted, immediately record a roobukaree stating the fact and his reasons for making the tender, which roobukaree will, on commitment of the case, be annexed by the sessions judge to the evidence taken by him.

THE Court, having observed that the practice enjoined in Clause 3, Section 3, Regulation X. of 1824, is not invariably followed, direct me to call the attention of the magisterial authorities to the provisions of that law, and to require that whenever a magistrate may have occasion to tender a conditional pardon under the law in question, he will, if it be accepted, immediately record a roobukaree, stating the fact of his having offered the pardon, and the reasons which induced him to make the offer.

2. If the case is committed to the sessions, the judge will be careful to annex this roobukaree to the deposition taken by him, from the party who has thus become a witness through the offer of pardon.

TO THE SESSIONS JUDGES IN THE NORTH-WESTERN PROVINCES.

Western Provinces, 23rd November, 1853.

No. 114.

The transmission of the Vernacular statements of the verdict of assessors or jurors, submitted with the jail delivery, to be discontinued.

IN modification of the rule, contained in Circular Order, No. 142, of the 4th November, 1842, the Court are pleased to direct the future discontinuance of the transmission of the Vernacular statement of the verdicts of assessors or jurors, which has hitherto been submitted by the sessions judges together with the other monthly returns.

TO THE SESSIONS JUDGES, NORTH-WESTERN PROVINCES.

Western Provinces, 28th November, 1853.

No. 115.

Sessions judges will, after their despatch to the Nizamut Adawlut of their monthly statements of conviction and

I AM directed by the Court to forward to you, the accompanying copy of a letter, No. 4344, of the 17th November, directing that after the despatch to this Court of your monthly statements of the cases of prisoners convicted and acquitted, the office copies of those statements shall be forwarded for the perusal of the commissioner to whose circle your district may belong.

acquittal, send the office copies of them for the perusal of the commissioner to whose circle their district may belong.

2. The Court request that you will give effect to the orders of the Government.

Copy of a letter from the Secretary to Government, N. W. P., to the Register of the Nizamut Adawlut, N. W. P., No. 4344, dated the 17th November, 1853.

SIR,

Judicial Department.

IT being very desirable that the commissioners of divisions, in their capacity of superintendents of police, should be kept fully informed of the course and result of the trials held upon the commitments made by the several officers exercising magisterial authority under them, I am desired by his Honor the Lieutenant Governor to request that the several sessions judges may be instructed, after the despatch to the Court of their monthly statements of the cases of prisoners convicted and acquitted, to forward the office copies of those statements for the perusal of the commissioners, to whose circles the districts may appertain.

2. The commissioners will be directed from this office, to return these office copies after perusal, to the sessions judges, within a brief period, not exceeding one week after their receipt.

3. This practice is not intended to supersede the rule under which it is the duty of the sessions judges to bring to the notice of the commissioners, with their own remarks, any particular case in which the proceedings of the magisterial and police officers, as shown in trials before them, may, in their judgment, call for the special interference or comment of the superior police authority.

I have, &c.,

W. MUIR,

Secretary to Government, N. W. P.

APPENDIX.

LIST OF CIRCULAR ORDERS, WHICH HAVE BEEN OMITTED, WITH THE REASONS FOR THEIR OMISSION.

Volume I.

Number.	Date.	Subject.	Reasons for the omission.
1	23rd Mar., 1796,	Courts of Circuit to prefix to the record of trials referred to the Nizamut Adawlut, a specification of the session and trial, and in what form, ...	Obsolete—Courts of Circuit abolished.
4	27th April, 1796,	Castration of slaves punishable by Mahomedan law. Notification of this provision to be promulgated,	Obsolete—See Act V., 1843.
10	21st Dec., 1796,	The korah to be used in the execution of sentences of corporal punishment, passed by the Nizamut Adawlut, and Courts of Circuit, and with what precautions, ...	Corah prohibited as an instrument of punishment, see Reg. XII., 1825.
12	28th Dec., 1796,	Convicts liable to the punishment of the korah to be examined by the native doctors, in the absence of the Surgeon, ...	See Reg. XII., 1825—Corah prohibited.
13	25th Oct., 1797,	Instructions to be given by the Magistrates to the Police daroghahs, of their respective jurisdictions, as to the mode of proceeding on receiving information of armed men being assembled for the purpose of taking or retaining forcible possession of disputed lands or crops.	See Sec. 18, Reg. XX., 1817.
14	25th Oct., 1797,	Magistrates how to proceed in recovering the forfeiture directed to be adjudged in cases of affrays,	See Act IV., 1840.

Number.	Date.	Subject.	Reasons for the omission.
15	25th Oct., 1797,	Description of jacket to be used when inflicting stripes with the korah, ...	See Reg. XII., 1825—Corah prohibited.
19	28th Feb., 1799,	Courts of Circuit strictly to observe the order of proceeding prescribed in Section 47, Regulation IX. 1793, ...	Superseded by C. O., No. 54, Vol. II.
20	28th Feb., 1799,	Conduct to be observed by the Police Officers and others, respecting persons wounded in such a manner as to render their removal hazardous.	See Sec. 14, Reg. XX, 1817.
21	5th Mar., 1800,	Engagement to be taken from the principal persons of villages to hold and transmit to the Magistrate inquests, in cases where the Police Officers are prevented from attending,.....	See Reg. XX., 1817.
22	25th April, 1800,	Courts of Circuit and Magistrates to cause their Native Officers to be very careful in transcribing the proceedings intended for the Nizamut Adawlut, ...	Superseded by No. 54, Vol. II.
24	6th Jan., 1801,	Insane persons not taken care of by their friends, how to be secured and taken charge of, ...	See Sec. 30, Reg. XX., 1817.
27	11th Sept., 1801,	Proceedings in trials referrible to the Nizamut Adawlut to be transmitted within the ten days fixed by Section 68, Regulation IX., 1793. Native Officers of Magistrates to assist in transcribing the proceedings of the Courts of Circuit and additional Mohurirs to be employed. Original of Magistrate's proceedings to be transmitted to the Nizamut Adawlut, without copies being made of them, ...	The 2nd para. of this Circular is omitted as it is rescinded by No. 143, Vol. I. which is itself omitted, being modified No. 181, Vol. I.
28	11th Sept., 1801,	Magistrates to afford the assistance of their writers to the Courts of Circuit for transcribing trials, ...	Obsolete—Courts of Circuit abolished.
29	22nd July, 1802,	Tender of pardon to accomplices restricted to certain cases, ...	See Reg X., 1824, and I. of 1829.
30	21st July, 1803,	Employment of convicts on private works prohibited, ...	Obsolete — See Act XVIII., 1844.
31	19th July, 1803,	Employment of convicts on private works, in what cases and under what restrictions allowed, ...	Obsolete — See Act XVIII., 1844.

Number.	Date.	Subject.	Reasons for the omission.
33	22nd May, 1804,	Construction of Section 17, Regulation IX. 1793, and corresponding enactments. Judges of Circuit in what event only required to examine proceedings of Magistrates on cases determined by them ; and in what mode to proceed in such examination,.....	See Act XXXI., 1841.
36	18th Sept., 1804,	Escape of convicts in what mode to be reported to the Nizamut Adawlut, ...	See Reg. XII., 1818, Sec. 5.
38	1st Nov., 1804,	Magistrates to lay before Courts of Circuit at each Jail delivery, a statement of crimes committed within their jurisdictions, ...	Superseded by No. 54, of Vol. II.
39	1st Nov., 1804,	Magistrates to lay before the Courts of Circuit, a report of all persons confined by them for security, ...	Ditto.
41	1st Feb., 1806,	Magistrates who have establishments of guard boats, to furnish periodical reports concerning them,	Obsolete as to the Nizamut Adawlut.
42	9th April, 1806,	Proclamation to be published to restrain the offence of child murder, as prevalent in the ceded and conquered provinces, ...	Of temporary use.
43	8th Nov., 1806,	Magistrates occasionally to make a circuit of, or visit particular parts of their districts, first applying for permission to the Nizamut Adawlut, Judges of Circuit to report the date of the commencement and conclusion of the business of each station, ...	See Act XXIV., 1837, and No. 7, of Vol. III.
45	4th April, 1807,	Prisoners sentenced by Magistrates, to be kept separate from prisoners convicted before Courts of Circuit, when employed on public works, ...	Obsolete.
46	8th Aug., 1807,	Control to be exercised by Judges of Circuit, on the proceedings of Magistrates, respecting prisoners confined for security. Cases in which an order for indefinite detention, till security be given, shall be passed, ...	See Reg. VIII., 1818, Sec. 3.
47	21st Jan., 1808,	Rules respecting the arms of thannah and cutwallee burkundazes,	Obsolete. See Reg. XX., 1817.

Number.	Date.	Subject.	Reasons for the omission.
48	2nd April, 1808,	Judges of Circuit, in their reports on the conclusion of the half-yearly Jail deliveries, to report the circumstances of prisoners confined under the direct orders of Government, Magistrates to prevent the occupation by individuals, of tombs or buildings constructed for religious purposes, ...	1st para. retained. See No. 7, Vol. III.
50	19th April, 1809,	General instructions as to the conduct of magistrates in cases of actual or expected affray. Resolutions of the Court, 19th April 1809, ...	See Act IV., of 1840, and Reg. XX., 1817.
52	7th May, 1809,	The Judges of Circuit to furnish an abstract statement of prisoners punished without reference to the Nizamut Adawlut, ...	Superseded. See No. 54, Vol. II.
54	15th Aug., 1809,	Instructions to magistrates relative to the preparation of their annual abstract statements of crimes,	Superseded. See 27th June 1842, No. 98.
55	12th Sept., 1809,	Magistrates in ceded and conquered provinces directed to repeat the proclamation of the 9th April 1806, as also that prescribed in Section 11, Regulation III., 1804,...	Merely of temporary use.
56	3rd Oct., 1809,	Form of register of persons proclaimed, to be substituted for that prescribed by Section 17, Regulation IX., 1808, ...	Reg, IX., 1808, repealed by Act IV. 1844.
57	4th Nov., 1809,	Notification to native officers of the penalties of Regulation II., of 1807, against forgery of public records,.....	Temporary.
60	12th Dec., 1809,	Transmitting form of English abstract to be subscribed at the foot of monthly reports of persons apprehended, and directing half-yearly reports to be furnished of persons in confinement, or under bail for examination,.....	Superseded. See 27th June 1842, No. 98.
63	20th Feb., 1810,	Courts of Circuit to furnish a half-yearly report on the state of the police in the City or Zillah, for which jail deliveries are held by them at the sudder station, ...	Superseded. See No. 7, of Vol. III.
68	27th Mar., 1810.	Form of statement of heinous crimes, to be substituted for that required by Section 26, Regulation IX., 1807, ...	Obsolete. See No. 98, 27th June, 1842.

Number.	Date.	Subject.	Reasons for the omission.
76	22nd Nov., 1810,	Mofussil police officers not to entertain agents at the sudder station. The allowance of their establishment how to be paid, ...	See Reg. XX., of 1817, Sec. 11.
81	17th Jan., 1811,	Conduct to be observed by Magistrates in cases of persons apprehended on suspicion of bad livelihood, &c., ...	3rd Para. of this Circular omitted, in consequence of the omission of Nos. 39 and 46, of Vol. I.
83	28th Feb., 1811,	Information to be furnished to the Superintendent of Police on the escape of prisoners, ...	See Reg. XII., 1818.
84	14th Mar., 1811,	Transmitting rules passed by Government for management of Jails, with instructions respecting them, ...	See Act XVIII., 1844.
85	12th April, 1811,	Transmitting copy of a letter from the Superintendent of Police, with forms of official memorandum books therein described, also, forms of registers of escaped convicts, persons absconded and charged with heinous offences, proclaimed dacoits, and persons released on security. Magistrate to instruct Darogahs to keep a diary of proceedings, and to provide them with the requisite books,.....	Superseded by C. O. No. 111, Vol. I.
86	25th April, 1811,	Form of half-yearly report to be furnished by magistrates, of prisoners in confinement, ...	Superseded. See No. 54, Vol. II.
87	25th April, 1811,	Report to be made when a judge of circuit is prevented from proceeding on the circuit, at the prescribed period, and when it may appear probable that the business of any circuit will be protracted beyond the period fixed for the commencement of the next,	See Act XXIV., 1837.
90	20th June, 1811,	Mode in which public officers are to attest confessions made before them, ...	Superseded by C. O., 16th July 1830, No. 54.
92	18th July, 1811,	Additional instructions relative to the forms transmitted with the Circular Orders, of the 12th April last, (No. 85.)	Superseded by C. O., No. 111, Vol. I.
96	15th Aug., 1811,	Sooruthauls, in what cases, and in what mode to be taken, ...	See Cl. 1, Sec. 2, Reg. XX., 1817.
97	22nd Aug., 1811,	Convicts removed to the Presidency to be sent so as to arrive in the beginning of November, ...	See Act XVIII., 1844.

Number.	Date.	Subject.	Reasons for the omission.
98	22nd Aug, 1811,	Transmitting observations by the third judge of the Dacca Court of Circuit, on the subject of punishment and treatment of prisoners, with resolutions of the Nizamut Adawlut thereupon, ... *	See Act XVIII., 1844, and later rules.
99	22nd Aug., 1812,	Report on the health of the prisoners to be furnished by the surgeon at each session of the Court of Circuit, ...	See Act XVIII., 1844.
100	22nd Aug., 1811,	Magistrates how to proceed in recommending persons for release on moochulka, under Section 11, Regulation LIII., 1803, ...	See Sec. 9, Reg. VIII., 1818.
102	24th Sept., 1811,	Judges of circuit, in referring trials to the Nizamut Adawlut, to write in English, in the margin of the letter accompanying their proceedings, the names of the prisoners in the order in which they may be brought forward, ...	Superseded. See 16th July 1830, No. 54, Vol. II.
106	20th Dec., 1811,	What description of convicts only to be sent to Calcutta from the several divisions, and at what season, ...	See Act XVIII., 1844.
107	26th Dec., 1811,	Detailed report on the state of each jail to be furnished by judges of circuit at the close of the circuit.	See Act XXIV., 1837.
108	30th Jan., 1812,	Abstract reports by judges of circuit, of prisoners punished without reference, to specify the date on which the crime was committed, and the date of sentence, ...	See Circular Order 16th July, 1830.
109	6th Feb., 1812,	Specification of the thefts to be included in the 6th column of the annual statement of crimes. Cases of culpable homicide not amounting to murder, to be inserted in a separate column, ...	Superseded, No. 98, 27th June, 1842.
113	4th June, 1812,	Orders of the Court of Directors, respecting the reports to be furnished by judges of circuit at the close of each circuit, ...	See Act XXIV., 1837.
114	25th June, 1812,	Alterations and additions in the half-yearly report of prisoners in confinement, ...	Ditto.
116	21st Aug., 1812,	Rules for the management of Jails in addition to those enacted by Government, ...	Act XVIII., 1844.

* Sic Orig.

Number.	Date.	Subject.	Reasons for the omission.
117	9th Sept., 1812,	Further instructions relative to the abstract statement to be furnished by judges of circuit of persons punished without reference, ...	See 16th July 1830, No. 54.
118	3rd Dec., 1812,	Convicts sentenced to stripes with the korah, to be brought before the magistrate, previous to the infliction of the punishment, ...	See Reg. XII., 1825.
119	3rd Dec., 1812,	Magistrates to furnish Courts of Circuit with a quarterly statement of the number of persons in confinement during each month, and of the number of casualties. Courts of Circuit to report to the Nizamut Adawlut, when the casualties are numerous, ...	See 16th July 1830, No. 54.
120	28th Jan., 1813,	Instructions relative to the reports on the state of the police, to be furnished by judges of circuit, at the close of the sessions, together with forms of abstracted calendars required to accompany them,	See Act XXIV., 1837.
121	11th Mar., 1813,	Judges of circuit how to proceed respecting trials that have been referred back either by the Nizamut Adawlut or Courts of Circuit, for further evidence or information, ...	See Act XXIV., 1837.
123	29th April, 1813,	Rules for the conduct of magistrates and police officers, respecting the practice of Hindoo women burning themselves on the funeral piles of their husbands, ...	See Reg. XVII., 1829.
126	27th Jan., 1814,	Judges of circuit in referring cases, wherein a prisoner may be liable to a sentence of death, to specify in English, in the margin of the letter accompanying the proceedings, the name of each prisoner's father, ...	See 16th July, 1830, No. 54.
127	3rd Feb., 1814,	Magistrates in their monthly reports, to distinguish prisoners in confinement, from those admitted to bail, ...	See 27th June, 1842, No. 98.
128	24th Feb., 1814,	Further instructions respecting the abstract report of persons punished by the judges of circuit without reference, ...	See Act XXIV., 1837.

Number.	Date.	Subject.	Reasons for the omission.
129	24th Mar., 1814,	Form of calendar to be furnished by judges of circuit of persons detained for security. Alteration in form of first calendar required by No. 120, ...	See Act XXIV., 1837.
130	14th April, 1814,	Alteration in the 5th column of half-yearly report of prisoners in confinement, ...	See 16th July 1830, No. 54.
131	14th April, 1814,	Security in certain cases to be required for a limited period only, and the eventual detention of the party to be subject to the same limitation, ...	See Sec. 9, Reg. VIII., 1818.
132	26th May, 1814,	Quarterly statements of the sick and casualties in the jail to be furnished by the surgeons to the Medical Board, ...	See Act XVIII., 1844.
135	6th July, 1814,	Transmitting suggestions of the Superintendent of Police for the more effectual separation of prisoners, and requiring its adoption as far as may be practicable, ...	See Act XVIII., 1844.
140	6th Sept., 1814,	Rules respecting the sentence to be passed on persons convicted of theft, on two or more distinct commitments, ...	Superseded. See Reg. VI., 1829.
142	4th Jan., 1815,	Additional rules for the conduct of magistrates and police officers, respecting the Hindoo custom of Suttee, ...	See Reg. XVII., 1829.
143	25th Jan., 1815,	Modification of the Circular Orders of the 11th September 1801, (No. 9,) respecting the transmission of trials referrible to the Nizamut Adawlut, ...	See No. 54, 16th July 1830.
144	25th Jan., 1815,	Magistrates, in their monthly reports, to furnish an explanation, whenever the number of prisoners in confinement for examination exceeds fifty, ...	See No. 98, 27th June 1842.
146	22nd Mar., 1815,	Magistrate's report and proceedings on escape of prisoners to be submitted through the Court of Circuit, ...	See Act XXIV., 1837.
147	18th April, 1815,	Rules to be observed by magistrates in proposing the offer of rewards, for the apprehension of offenders, especially when accompanied by proclamation under Section 3, Regulation IX., 1808, ...	Reg. IX., 1808, repealed by Act IV., 1844.

Number.	Date.	Subject.	Reasons for the omission.
148	3rd May, 1815,	Further instructions to the Courts of Circuit, regarding the monthly reports of the magistrates, of persons detained for examination, ...	See No. 98, 27th June, 1842.
149	11th May, 1815,	Construction of Clause 3, Section 2, Regulation VII., 1811, ...	Omitted in consequence of Sec. 12, Reg. XX., 1817.
150	10th Aug., 1815,	No prisoners to be removed from one station to another, without previous sanction of the Nizamut Adawlut, under Clauses 4 and 5, Section 8, Regulation LIII., 1803, ...	See Act VII., 1850.
151	10th Aug., 1815,	The Courts of Circuit to specify in their warrants the date of sentence of the Nizamut Adawlut, ...	See Act XXIV., 1837.
152	17th Aug., 1815,	Transmitting new form of monthly report to be substituted for that prescribed in Section 28, Regulation IX., 1793. Modification of Circular Orders of 12th December 1809, with respect to the half-yearly report therein prescribed, ...	Form of report rescinded by Sec. II., Reg. VII., 1829.
153	17th Aug., 1815,	Prescribing forms of calendars of postponed trials, to be laid before the judges of circuit at the commencement of each session, ...	Act XXIV., 1837.
154	28th Sept., 1815,	Communicating the observations and orders of the Nizamut Adawlut to the Courts of Circuit, regarding the monthly jail deliveries of some stations, ...	Act XXIV., 1837.
155	8th Nov., 1815,	Transmitting to the Courts of Circuit extracts from a letter from the Court of Directors, dated 17th March, 1815, regarding the regular transmission of reports on the state of the police, required from the judges of circuit, after the completion of each half-yearly session, ...	See Act XXIV., 1837. The duty transferred to session judges.
158	11th Jan., 1816,	Transmitting extracts from a correspondence between the Government and Mr. Shakespear, the Superintendent of Police, on the state, treatment and punishment of prisoners in jail, ...	See Act XVIII., 1844.
162	24th Feb., 1816,	Transmitting to the Courts of Circuit, an extract of a letter from the Court of Directors to the Governor General in Council, and requiring them to ascertain and report, if the Hindoo Criminal Law, or any other,	

Number.	Date.	Subject.	Reasons for the omission.
		but the Mahomedan Criminal Law, appears to have prevailed in the administration of criminal justice within the Company's Territories, either at the time when they were acquired, or antecedently to such time, and other particulars relative to the same. As also concerning any existing defects experienced under the Mahomedan criminal law, as modified by the Regulations, and the method of obviating the same, if any, ...	Temporary.
163	29th Mar., 1816,	An addition directed to be made at the foot of the half-yearly reports furnished by magistrates, of prisoners in confinement on the 30th June and 31st December, towards ascertaining what offences appear to be the principal cause of an accumulation of prisoners in the common jails, ...	See Act XVIII., 1844.
164	29th May, 1816,	Explanation of some doubts of the contents of the monthly report prescribed by the Circular Orders of the 17th August last, and directing some alterations and additions thereto, ...	See Act XXIV., 1837.
165	12th June, 1816,	Communicating the Establishment of Insane Hospitals at the principal station of each provincial division, and directing the removal of insane persons thither, with certain exceptions; and enjoining, through the Courts of Circuit, the strict attention of the magistrates to the Circular Order of 25th June, 1812, regarding the accumulation of prisoners in public jails, ...	Paras. 5 and 6, omitted in consequence of the omission of Cir. Orders, 25th April, 1811 and 25th June, 1812.
166	12th June, 1816,	The abstract statement prescribed by Regulation IX., 1807, Section 26, and modified by the Circular Order of the 27th March, 1810, to be accompanied by sundry documents and information, when submitted to the judges of circuit, ...	Form of Statement rescinded by Reg. VII., 1829.
167	3rd July, 1816,	Transmitting a form, for the statement of trials postponed in the several zillahs or cities, and enforcing the orders previously issued on this subject; and providing for the regular execution of the sen-	

Number.	Date.	Subject.	Reasons for the omission.
		tences of the Nizamut Adawlut, and for the due determination of referred trials, and the execution of sentences passed thereon, ...	See C. O. 16th July, 1830, No. 54.
168	3rd July, 1816,	An amended form of the abstract of reports exhibiting the number of persons in close confinement for examination, transmitted, ...	
169	10th July, 1816,	Transmitting sundry papers to the Courts of Circuit, to be forwarded to the several magistrates in their divisions, with directions to call on the latter to report if mats and additional clothing be necessary for the prisoners in jails during the winter, and the probable annual expense for providing the same, ...	Temporary.
170	24th July, 1816,	Modification of the calendars prescribed by Regulation IX. 1793, Sections 13 and 17, and of the abstract calendars required by the Circular Orders of the Nizamut Adawlut, under date the 28th January, 1813 and 24th March, 1814, ...	Form of calendar rescinded by Sec. 2, Regulation VII., 1829.
171	21st Aug., 1816.	Transmitting to the Courts of Circuit a copy of the correspondence between the Court of Circuit of the division of Patna and the Nizamut Adawlut, and authorizing the adoption of the modification, proposed by the former, of the magistrates' monthly Persian reports of persons apprehended, and of the English abstract at the foot thereof.	See Act XXIV., 1837.
172	23rd Sept., 1816,	The magistrates of the several cities and zillahs at liberty to draw out in the Persian language, the calendars prescribed by Regulation IX., 1793, Section 17, subject to the modification of them directed by the Circular Orders of the Nizamut Adawlut, of date the 24th July 1816.	Form of calendar rescinded by Sec. 2, Regulation VII., 1829.
173	23rd Sept., 1816,	Recommending to the Courts of Circuit, the adoption of the suggestion of a late officiating judge of the Benares Court of Circuit, of trying in all practicable cases, those cases first which have occurred at the greatest distance from the magistrates' stations, with the view of obtaining further witnesses if requisite, before the departure of the Court of Circuit, ...	See Act XXIV., 1837, Courts of Circuit abolished.

Number.	Date.	Subject.	Reasons for the omission.
174	23rd Sept., 1816,	The Courts of Circuit desired to call upon the magistrates of their respective divisions, to report whether the cases of all the prisoners stated to be in confinement during examination in their monthly Persian reports for June, have been disposed of; and if not, the reason for the same, and further directions to the Courts of Circuit how to proceed in case of receiving an unsatisfactory report, ...	See Act XXIV., 1837, Courts of Circuit abolished.
175	16th Oct., 1816,	Modification of the Circular Orders of the 3rd July, 1816, and directing the Courts of Circuit to notice to the Nizamut Adawlut when trials referred to the latter, remain undetermined after six months, ...	Ditto.
176	31st Oct., 1816,	The Courts of Circuit required to include in their abstract statements of sentences passed by them, for the information of the Court of Directors, short explanations of cases of culpable homicide, by which this last offence may be distinguished from cases of actual murder, or which may influence the degree of punishment or guilt. The like explanations required of certain other cases, which may be included in the said abstract statements, for the satisfaction and information of the Court of Directors, ...	Courts of Circuit abolished.
179	13th Nov., 1816,	Transmitting to the Courts of Circuit, copies of a letter from the Secretary to Government in the judicial department to the Nizamut Adawlut, and of its enclosure, with directions to report to that Court, whenever a delay of five days may occur in the arrival of a Court of Circuit at any station where a session of that Court may have been appointed, accompanied by a full explanation of the cause of delay,...	Ditto.
181	23rd Jan., 1817,	Modification of the Circular Order of the 25th January, 1815, requiring the Courts of Circuit to transmit the records of trials referrible to the Nizamut Adawlut, from the station at which they have been	Ditto.

Number.	Date.	Subject.	Reasons for the omission.
		held; and the Courts of Circuit authorized in particular cases, to transmit such trials from the next station of jail delivery, ...	
182	26th Feb., 1817,	Courts of Circuit desired to transmit statements of sentences passed by them, not subject to a reference to the Nizamut Adawlut, before leaving the station where such sentences have been passed, or from the next station of jail delivery at furthest,.....	Courts of Circuit abolished.
184	25th June, 1817,	Transmitting further instructions to the Courts of Circuit for the information and guidance of the several magistrates, regarding the Hindoo retrial of the Suttee; as also a bewustah of the Pundits of the Sudder Dewanny Adawlut, and an extract of the proceedings of the Nizamut Adawlut on the subject, ...	See Reg. XVII., 1829.
186	19th July, 1817,	Explanation of the Circular Order of the 23rd March, 1796, requiring the specification of the session and trial on the record of the trial, ...	See C. O. 16th July, 1830, No. 54.
188	14th Aug., 1817,	Transmitting to the zillah and city magistrates of the divisions of Dacca, Patna, Benares and Bareilly, an extract of a letter from the Acting Chief Secretary to Government relative to the insubordination of convicts sentenced to imprisonment for life, when assembled together in the jails at Cawnpore, Benares, Patna and Dacca, preparatory to their removal to the jail at Allipore, and modifying the Circular Order of the Nizamut Adawlut upon the subject, ...	See Act XVIII., 1844.
189	4th Sept., 1817,	Communicating to the several magistrates the instructions of the Nizamut Adawlut in carrying into execution, the sentences of the Court and of the Courts of Circuit, adjudging corporal punishment by stripes,	See Reg. II., 1834.
190	11th Sept., 1817,	Transmitting translations in the Persian and Bengallee languages of the bewustahs of the Shastry Pundit of the Sudder Dewanny Adawlut, regarding the Suttee immolation, ...	See Reg. XVII., 1829.

Number.	Date.	Subject.	Reasons for the omission.
192	1st Dec., 1817,	The several magistrates of the ceded and conquered provinces, including Cuttack, directed to make the notification contained in the Circular Orders, dated the 27th April, 1796, prohibiting the practice of castrating children if not already made, ...	Temporary.
193	27th Jan., 1817,	The attention of the Courts of Circuit called to the rule laid down in Regulation IX., 1793, Section 47, touching the mode of proceeding in criminal trials, and directing the discontinuance of certain irregular practices, ...	See Secs. 2, 4 and 7, Reg. IV., 1797. Reg. I., 1810 and Reg. VI., 1832.
194	4th Feb., 1818,	Explanation of the provisions of Regulation I., 1811, Regulation XI., 1814 and Regulation XVII., 1817, Section 8, Clause 5, respecting the punishment of burglary,	See Reg. XVI., 1825, and I., 1831.
196	24th Feb., 1818,	Transmitting to the Courts of Circuit a copy of a letter from the Acting Chief Secretary to Government, regarding the employment of convicts on public buildings, to be communicated to the several magistrates in their divisions, ...	See Act XVIII., 1844.
197	8th April, 1818,	Construction of the provisions of Regulation XVII., 1816, Section 7, regarding the removal and appointment of some of the Native Officers of the zillah and city courts, ...	Sec. 7, Reg. XVII., 1816. Modified by Sec. 8, Reg. XI., 1831.
200	20th April, 1818,	Transmitting to the several magistrates of the divisions of Benares and Bareilly, an extract from a report of the second judge of the Court of Circuit for the division of Bareilly, and enjoining them to be cautious in the infliction of stripes on offenders, under the provisions of Regulation III., 1812, Section 6, and Regulation XIV., 1816, Section 9, ...	See Sec. 11, Reg. II., 1834.
202	20th April, 1818,	Explanation of Regulation IX., 1807, Section 19, relative to the demand of security from prisoner for good behaviour, and to his detention on that account after the expiration of his sentence awarded by a magistrate, ...	See Sec. 3, Reg. XII., 1818.

Number.	Date.	Subject.	Reasons for the omission.
205	16th July, 1818,	Transmitting to the Courts of Circuit a copy of the Circular instructions issued to the magistrates relative to the confinement of prisoners in the public jails, ...	See Act XVIII., 1844.
206	23rd July, 1818,	Transmitting to the Courts of Circuit, a copy of a Circular letter written to the several magistrates relative to the confinement of prisoners committed for burglary, ...	Ditto.
207	20th Aug., 1818,	Transmitting additional rules for the management of the jails in pursuance of Regulation XIV., 1816, Section 2, descriptive of the weight and construction of fetters to be used.	See Act XVIII., 1844.
208	30th Oct., 1818,	Transmitting for the information of the Courts, copies of a letter from the Board of Commissioners in the ceded and conquered provinces and of the resolutions of Government, relative to the abuses committed by two principal Native Officers of the Cawnpore Collectorship, disqualifying them from all public employment, ...	Temporary.
212 *	11th Dec., 1818,	Transmitting copies of a letter from Government and its enclosures, containing rules proposed for the employment of prisoners on the public roads, and requiring the opinion of the several Courts on the points therein contained, ...	See Act XVIII., 1844.
212	26th Dec., 1818,	Transmittting copy of a letter written to the fourth judge of the Calcutta Court of Circuit, on the subject of commitments for burglary, made before the promulgation of Regulation XII, 1818, and on the competency of those Courts to try such commitments laid before them subsequently to that period, ...	See Reg. IV., 1820, Reg. VI., 1824, and Reg. II., 1834.
213	14th Jan., 1819,	See No. 31, of the new edition of Circular Orders, ...	Obsolete.
214	22nd Jan, 1819,	Transmitting extract of a letter addressed to the commissioner nominated to the duty of revising the cases of security prisoners in the divisions of Moorshedabad and Dacca, regarding the revision of the cases of security prisoners, whose	See Act XXIV., 1837, and Act XXXI., 1841.

* Sic Orig.

Number.	Date.	Subject.	Reasons for the omission.
		sentences have not expired, and the reports to be made by the magistrates and Courts of Circuit of the steps taken by them to hold such prisoners to security, after the expiration of their sentences.	
216	16th April, 1819,	Communicating instructions for the guidance of the Courts of Circuit relative to the control to be exercised by them over the magistrates, in the discharge of the increased powers vested in the latter by Regulation XII, 1818, and directing the Courts of Circuit to furnish certain explanations under the column of remarks in the abstract statement of prisoners punished without reference to the Nizamut Adawlut,...	See Act III., 1844.
217	20th April, 1819,	Transmitting extracts of a letter addressed to Government, relative to the existing system of employment for prisoners in the public jails of the Lower Provinces; the sentiments of the Nizamut Adawlut on the practicability of adopting a more eligible one in lieu of it; their observations on the existing system; and the opinion of the Courts of Circuit required on certain stated points towards introducing a change therein, and containing instructions against the use of fetters, and the working of prisoners on the roads in certain cases, ...	Temporary.
218	21st May, 1819,	Requiring through the Courts of Circuit, statements from the several magistrates in whose jails there may be prisoners in confinement under sentences passed by the Naib Nazim, to enable the Nizamut Adawlut to judge of the propriety of recommending to Government their pardon and enlargement, ...	Temporary.
219	9th July, 1819,	Instructing the Courts of Circuit to direct the particular attention of the several magistrates to the cases of security prisoners, who have been unconditionally discharged under Regulation VIII., 1818, and regarding the steps to be taken to avoid their falling into a dishonest course of life, ...	See Reg. IV., 1825, Sec. 5.

Number.	Date.	Subject.	Reasons for the omission.
220	2nd Aug., 1819,	Explanation and construction of Regulation VII., 1794, Section 14, respecting the legality of a Mahomedan law officer of a neighbouring Zillah or City, officiating in a Court of Circuit, in the absence of the Mahomedan law officers of a Court of Circuit, and of the Zillah or City where the Court may be sitting, from sickness or other cause; and the validity of the Futwa on criminal trials, of such officiating Mahomedan Law Officer, ...	See Reg. IV., 1830.
221	13th Aug., 1819,	Transmitting copy of the proceedings of the Nizamut Adawlut, dated 21st May, 1819, of the Resolutions of Government, dated 30th July, and of the letter which accompanied them, on consideration of the measures proposed for diminishing the prevalence of the practice of suttee, ...	See Reg. XVII., 1829.
222	20th Aug., 1819,	Transmitting a new form of report of the cases of security prisoners, revised by the judges of circuit at the periodical sessions of jail delivery, under Regulation VIII., 1818, in lieu of that formerly prescribed,...	See Act XXXI., 1841.
225	8th Oct., 1819,	Requesting the Courts of Circuit to circulate for the information and guidance of the several magistrates, the remarks and orders of the Nizamut Adawlut, on the suttee report of the year 1818, together with the resolutions of Government thereon transmitted on the 13th August 1819, ...	See Reg. XVII., 1829.
226	5th Nov., 1819,	Transmitting copy of a letter from the Chief Secretary to Government, and directing the particular attention of the judge who may hold the monthly sessions for December ensuing, to the half-yearly police report and to the administration of criminal justice, ...	See Act XXIV., 1837.
227	24th Dec., 1819,	Instructing the courts when to transmit the calendar of security cases, revised at the periodical sessions of which a new form was forwarded to them on the 20th August last, and requiring those courts to	See Act XXIV., 1837.

Number.	Date.	Subject.	Reasons for the omission.
		include, in the general reports now furnished by them, at the conclusion of each periodical circuit, certain information regarding the duties of the circuit, ...	
230	14th Jan., 1820,	Communicating the observations of the Nizamut Adawlut on the great disproportion between the number of persons apprehended in some zillahs, in one month, and that discharged for want of evidence for commitment or punishment and the instructions of the Court on the subject, ...	Temporary.
231	7th April, 1820,	Construction of Regulation XII., 1818, Section 3, Clause 2; magistrates bound to dispose of cases of theft, unattended by aggravating circumstances with regard to amount, and not to make them over to the Courts of Circuit, ...	Modified, See Sec. 3, Reg. VI., 1824, also Sec. 5.
232	14th April, 1820,	Requesting the Courts of Circuit to furnish at the end of each month, returns of the number of miscellaneous criminal trials depending before, and decided by them, according to the form herewith given, ...	Courts of Circuit abolished.
233	8th May, 1820,	The Courts of Circuit desired henceforward to submit their proceedings together with those of the magistrates held on the commitment of any prisoner, in all cases wherein a reference to the Nizamut Adawlut may be necessary, and wherein the sentence of punishment is declared to be barred or liable to modification in consequence of the prisoner's insanity, ...	See No. 54, 16th July, 1830.
234	19th May, 1820,	Forwarding copies of a letter from the magistrate of Juanpore, and of the reply to the same, containing a construction of Regulation III., 1820, relative to the compulsory exaction of the service of individuals denominated begarees, ...	Temporary.
235	2nd June, 1820,	Transmitting for the information and guidance of the magistrates, an extract from the remarks and orders of the Nizamut Adawlut, on the suttee reports and statements for the year 1819, ...	See Reg. XVII., 1829.

Number.	Date.	Subject.	Reasons for the omission.
236	30th June, 1820,	Drawing attention to Circular Order issued on this date, regarding the misconduct of the treasurer of Mirzapore, ...	Temporary.
237	7th July, 1820,	Ditto, regarding misconduct of the head accountant of Tirhoot collectorate, ...	Ditto.
238	18th Aug., 1820,	Communicating instructions for the guidance of the several magistrates, with regard to the working and employment of prisoners in confinement under sentences of misdemeanor, as distinguished from those under sentences for more serious crimes, ...	See Act XVIII., 1844.
240	8th Sept., 1820,	Transmitting copies of the correspondence passed between Government and the late joint magistrate at Futtehpore, on the subject of the measures pursued by him for employing the convicts under his charge, in a manner calculated to give them habits of useful industry, and to meet in some degree, the expense attending their imprisonment, ...	Temporary.
243	4th May, 1821,	Transmitting extracts of a letter from Government to the superintendent of police in the Lower Provinces, and desiring the judges of circuit to furnish those authorities with such parts of their future circuit reports, as relate to the police, together with copies of the statements of crimes, ...	See Act XXIV., 1837.
244	25th May, 1821,	Transmitting for the information and guidance of the magistrates, an extract from the remarks and orders of the Nizamut Adawlut, on the suttee reports and statements for the year 1820, ...	See Reg. XVII., 1829.
246	27th July, 1821,	Transmitting extracts of a letter from Government, and directing that the Courts of Circuit recommend, during the periodical sessions of jail delivery, a mitigation of punishment in certain cases of burglary, tried before the enactment of Regulation XII., 1818, ...	Temporary.

Number.	Date.	Subject.	Reasons for the omission.
248	15th Mar., 1822,	Transmitting for the information and guidance of the other Courts of Circuit and of the magistrates, copies of the register's letter to the Dacca Court of Circuit, containing instructions relative to the preparation of the future Persian monthly reports of prisoners in confinement for examination, and the English abstract thereof in respect to the columns appropriated for persons on bail, ...	See No. 98, 27th June, 1842.
249	15th Mar., 1822,	Transmitting for the information and guidance of the other Courts of Circuit, extracts of the register's letter to the Moorshedabad Court of Circuit, enumerating the statements which the judges of circuit should furnish on the completion of each jail delivery, and on the termination of the whole circuit.	See No. 98, 27th June, 1842.
250	29th Mar., 1822,	Communicating that the Court's Circular Order of the 20th April, 1818, has been rescinded by Regulation VIII., 1818; and that the magistrates cannot detain prisoners under requisition of security in addition to a specific sentence, ...	See Sec. 2, Reg, II. 1830.
251	27th April, 1822,	Transmitting extracts of a letter from Government to the superintendent of police for the lower provinces, and directing the judges of circuit to furnish those officers with copies of their future circuit reports and statements, ...	See Act XXIV, 1837.
252	27th April, 1822,	Directing, in modification of the Court's Circular Order of the 18th August, 1820, that with a view of promoting industry and reformation in prisoners, they be allowed one-half the produce of their private labour, instead of one-fourth, ...	See Act XVIII., 1844.
255	17th May, 1822,	Giving the magistrates a discretion in acting upon the Court's Circular Order of the 18th August 1820, relative to the new system of working prisoners, ...	Ditto.
256	24th May, 1832,	Directing the magistrates to furnish a brief explanation of each case in their future suttee reports, distinguishing the ceremony by which the sacrifice took place, and	See Reg. XVII., 1829.

Number.	Date.	Subject.	Reasons for the omission.
		stating whether there were any children, their ages, whether the police officers were present, and any thing else worthy of insertion, ...	
257	24th May, 1822,	Transmitting, for the information and guidance of the magistrates, an extract from the remarks and orders of the Nizamut Adawlut, on the suttee reports for the year 1821, ...	See Reg. XVII., 1829.
258	28th June, 1822,	Transmitting for the information and guidance of the magistrates, an extract of a letter from the superintendent of police in the lower provinces to Government, relative to a fire which broke out in the Dinagepore jail, in consequence apparently of allowing the prisoners the use of hookahs, after they were shut up at night, ...	See Act XVIII., 1844.
259	19th July, 1822,	Correcting an erroneous opinion entertained by some of the magistrates, of their possessing a discretionary power of awarding corporal punishment; and desiring the Courts of Circuit to explain and enforce the rules on the subject, ...	See Reg. II., 1834.
261	9th Aug., 1822,	Transmitting, for the information and guidance of the Courts of Circuit, extracts from a correspondence between the Nizamut Adawlut and Government, relative to the magistrates forwarding to the sudder stations of provincial courts, quarterly, the statements now submitted to the judges, while on circuit, and in the same form as those submitted by them to the superintendent of police, and regarding the judges transmitting their general circuit reports regularly and expeditiously, (framing them as directed with respect to period,) and furnishing the superintendent of police with copies thereof, and of the statements submitted with them to the Nizamut Adawlut: also requesting to be furnished with the results of the Court of Circuit's observations of the manner in which the magistrates may exercise their powers under Regulation XII., 1818, and of the effects of that enactment,.....	Courts of Circuit abolished.

Number.	Date.	Subject.	Reasons for the omission.
262	16th Aug., 1822,	Transmitting, for the information and guidance of the Courts of Circuit, and in continuation of the Court's Circular Order of the 9th August, 1822, extracts from the further resolutions of Government relative to the statements furnished to the judges of circuit and superintendents of police by the magistrates being drawn up every quarter, and regarding the mode of preparing the circuit reports and statements with respect to period,...	See Act XXIV., 1837.
263	16th Aug., 1822,	Transmitting the form of an abstract statement of acquittals at the periodical sessions of jail delivery; and desiring that such statement be submitted in future, together with the futwas of acquittal,...	Form superseded, See C. O., 27th June, 1842. No. 98.
265	16th Aug., 1822,	Directing the Courts of Circuit to transmit to the Nizamut Adawlut, at the close of each session, copies of the lists submitted to them by the magistrates at the period of sessions, under Section 6, Regulation XII., 1818, as well as of their orders thereon, ...	See Act XXIV., 1837.
266	24th Aug., 1822,	Correcting an error, (*viz.*, the omission of the word "seal") supposed to have occurred in the Court's Circular Order of the 9th August, 1822, transmitting the form of endorsing warrant, in capital cases, ...	Temporary. Error Corrected in this edition.
267	13th Sept., 1822,	Transmitting the form of a monthly abstract statement of deaths in the different jails; and directing the magistrates to submit them to the Nizamut Adawlut, before the 5th of each month, together with an explanation, whenever the number of casualties may exceed five, ...	Superseded, See C. O., 27th June, 1842. No. 98.
268	13th Sept., 1822,	Transmitting an extract from the resolutions of Government, and directing the magistrates to furnish, in their future suttee reports, some notice of the husband's profession and circumstances in life, ...	See Reg. XVII., 1829.
269	9th Oct., 1822,	Transmitting, in modification of the Court's Circular Orders of the 9th and 16th August, 1822, a copy of the resolutions of Government;	

Number.	Date.	Subject.	Reasons for the omission.
		and desiring that the reports of the Calcutta, Moorshedabad and Patna divisions, for the first sessions of the year, and those for the second sessions, the last six months of that year; and that those of the Bareilly, Benares and Dacca divisions for the first circuit, embrace the last six months of the preceding year; and those for the second circuit, the first six months of the current year; and that the judges of circuit make mention, in the body of their report, of any circumstance materially affecting the police, though not occurring within the limited periods,.....	See Act XXIV., 1837.
270	29th Nov., 1822,	Transmitting, for the information and guidance of the magistrates, the copy of a correspondence between the acting joint magistrate at Bittoorah and the Nizamut Adawlut, on the subject of certain profits stated to be divided by the treasurer at that station, from the exchange into pice of rupees disbursed for the diet allowance of prisoners, and desiring that those profits be in future carried to the credit of Government,.....	See Act XVIII., 1844.
271	12th Dec., 1822,	Transmitting blank printed forms for the statements that accompany circuit reports; and desiring that they be adopted in future, ...	See No. 98, 27th June, 1842.
274	21st Mar., 1823,	Directing, in modification of the Court's Circular Order of the 16th August, 1822, that the Courts of Circuit submit to the Nizamut Adawlut, monthly copies of the statements furnished to them by the magistrates, under the Circular Order of the 16th April, 1819, as also the orders the Courts of Circuit may pass thereon,..... ..	See Act XXIV., 1837.
275	2nd May, 1823,	Explaining that the Court's Circular Order, of the 20th April, 1819, did not intend to fix a maximum of punishment in cases of burglary, ...	Temporary.
277	6th June, 1823,	Transmitting an extract of a letter from the Hon'ble Court of Directors, and desiring that the judges of circuit transmit with their future circuit reports copies of their correspon-	

Number	Date	Subject	Reasons for the omission
		dence with the magistrates, discussing matters relative to the state of the districts, or the mode of conducting business in the magistrate's office, ...	See Act XXIV, 1837
278	4th July, 1823,	Transmitting extracts from the remarks and orders of the Nizamut Adawlut, on the suttee reports for 1822, . .	See Reg XVII, 1829
279	21st Nov, 1823,	Transmitting extracts of a letter from the fourth judge of the Patna Court of Circuit to the Nizamut Adawlut, and from their register to Government relative to the circuit judges visiting the insane hospitals and reporting thereon, .. .	See Act XXIV, 1837 Courts of Circuit abolished.
280	21st Nov, 1823,	Transmitting an extract of a letter from the fourth judge of the Patna Court of Circuit, and desiring that in the statements, presented to the judges of circuit, of acquittals and convictions, those persons only be enumerated, who may have been apprehended by the police, or by warrant of the magistrate,	See Act XXIV, 1837 Courts of Circuit abolished.
282	16th Jan, 1824,	Discontinuing the transmission of the annual statement of heinous crimes, submitted by the magistrates under the Court's Circular Orders of the 7th March, 1803, and 27th March, 1810, and Section 26, Regulation IX, 1807,	Form rescinded by Reg VII, 1829.
284	23rd Jan, 1824,	Transmitting copies of correspondence between the Nizamut Adawlut and Patna Court of Circuit, and desiring the judges of circuit to report regularly their revision of the orders passed by the commissioner, under Regulation VIII, 1818, in the cases of security prisoners, ...	See Act XXIV, 1837.
286	2nd April, 1824,	Desiring the judges of circuit to report any extraordinary delay that may occur in carrying into execution a sentence of capital punishment, ...	Courts of Circuit abolished
288	17th April, 1824,	Transmitting copies of a letter from the superintendent of police in the lower provinces, and of its enclosure, being copy of a letter from the joint magistrate at Monghyr, and communicating instruc-	Courts of Circuit abolished

Number.	Date.	Subject.	Reasons for the omission.
*		tions relative to prisoners, who may in future be committed by the several joint magistrates for trial before the Courts of Circuit, ...	
286	30th April, 1824,	Transmitting, for the information and guidance of the magistrates and joint-magistrates, copy of a letter from Government, prescribing the course to be adopted whenever a British subject, residing in the interior of the country, shall be guilty of any act of illegal violence, injustice or oppression towards the natives, in the prosecution of indigo or other commercial transactions,...	See Act IV., 1837.
290	7th May, 1824,	Requesting the Courts of Circuit to instruct the magistrates and joint-magistrates to furnish fuller information for the future, in the column of "explanations and remarks," in the statement of prisoners punished by them under Regulation XII., 1818, ...	See Reg. VII., 1829.
296	18th June, 1824,	Communicating instructions with reference to Clause 2, Section 3, Regulation V., 1814, with a view of preventing delay in the commencement of the monthly sessions,.....	Reg. V., 1814, superseded by the abolition of the provincial courts of circuit.
298	23rd July, 1824,	Desiring the magistrates, with reference to the Circular of the 13th September, 1822, to add a column in their future suttee reports for some account of the husband's profession, circumstances and condition in life; the information to be ascertained from common report, ...	See Reg. XVII., 1829.
299	23rd July, 1824,	Transmitting extracts from the remarks and orders of the Nizamut Adawlut, on the suttee reports for 1823, ...	Ditto
300	24th Sept., 1824,	Forwarding revised forms of some of the statements submitted to the Nizamut Adawlut, on the conclusion of each sessions and of the whole circuit; and directing the transmission in future of two calendars of postponed trials,.....	Superseded by C. O. No. 98, 27th June, 1842.

* Sic Orig.

Number.	Date.	Subject.	Reasons for the omission.
297	26th Nov., 1824,	Forwarding copies of the correspondence between the Nizamut Adawlut and certain magistrates, containing a construction of some of the provisions of Regulation XV., 1824, ...	Reg XV., 1824, repealed by Act IV., 1840.
305	14th Jan., 1825,	Directing that the magistrates apply for a fresh warrant in cases where the execution of a convict may have been postponed,...	Obsolete.
306	28th Jan., 1825,	Declaring the joint-magistrates to possess exclusive control over the police within their jurisdictions,	Obsolete.
307	11th Feb., 1825,	Furnishing additional rules relative to the proceedings to be held in conducting inquiries in the case of persons supposed to be insane, ...	See Act IV., 1849. Para. 6 only omitted.
308	11th Feb., 1825,	Judges of circuit to make suggestions relative to public works undertaken under the direction of the local committees, ...	Courts of Circuit abolished.
309	25th Mar., 1825,	Transmitting forms of statements showing the proportion of convictions to acquittals, ...	Superseded by C. O., 27th June, 1842, No. 98.
310	9th April, 1825,	Requiring a separate abstract statement of crimes to be prepared for each zillah, containing additional columns for highway-robberies, burglaries and cattle stealing under 10 rupees; and directing the mode in which dacoities and dacoities on the river should be included in the statement, ...	Ditto.
311	1st July, 1825,	Transmitting extract from the remarks and orders of the Nizamut Adawlut on the suttee reports for 1824, ...	See Reg. XVII., 1829.
312	3rd Feb., 1826,	Directing that whenever a judge of circuit, holding a sessions, may wish to annul a commitment made by a magistrate, he shall record his opinion to that effect, and immediately refer the case to one of his colleagues for final orders,.....	Courts of Circuit abolished.
313	3rd Mar., 1826,	Requiring half-yearly reports of patients in the insane hospitals to be prepared according to the form transmitted, containing five additional columns, ...	See C. O. No. 98, 27th June, 1842.

Number.	Date.	Subject.	Reasons for the omission.
314	12th May, 1826,	Requesting the sentiments of the Courts of Circuit regarding the provisions of Regulation XV., 1814, ...	Reg. XV., 1824, repealed by Act IV., 1840.
315	23rd June, 1826,	Requesting the Courts of Circuit to specify the stations at which, on account of their distance from any town or village, they consider it necessary to erect buildings for the accommodation of the circuit omlah, and to furnish estimates of the cost, ...	Courts of Circuit abolished.
316	18th Aug , 1826,	Intimating, that notwithstanding the substitution of the ratan for the corah, the Court's Circular Orders of the 21st and 28th December, 1796, and 3rd December, 1812, should be considered as still in force, ...	See Reg. II., 1834.
317	27th Oct., 1826,	Transmitting extract from the remarks and orders of the Court of Nizamut Adawlut, on the suttee reports for 1825, ...	See Reg. XVII., 1829.
318	8th Dec., 1326,	Directing a careful examination of the records of magistrate's offices, that those warrants may be returned, the periods of sentence of which have expired, ...	Obsolete.
319	29th Dec., 1826,	Directing the insertion of an additional column in the form of half-yearly reports of patients in the insane hospitals, ...	See C. O. No. 98, 27th June, 1842.
322	16th Feb., 1827,	Requesting the opinion of the Courts of Circuit respecting the amount of extra allowance which should be granted to law officers, while actually employed on circuit,	Obsolete.
324	20th April, 1827,	Directing the regular transmission to the superintendents, of such parts of the reports at the conclusion of the sessions as relate to the police, ...	See Act XXIV., 1837.
325	4th May, 1827,	Desiring that the magistrates may be instructed to take engagements in a specific form, from parties receiving charge of individuals acquitted by the Nizamut Adawlut, on the ground of insanity after a trial for murder, ...	See Act IV., 1849.
326	18th May, 1827,	Cancelling the Circular Order of the 4th February, 1818, ...	Obsolete.

Number.	Date.	Subject.	Reasons for the omission.
327	24th Aug., 1827,	Requiring information on the subject of affrays attended with loss of lives, arising from public sales of land to realize arrears of revenue,...	See Act IV., 1840.
328	24th Aug., 1827,	Directing the addition of a column in the half-yearly statements of offences furnished by magistrates to the Courts of Circuit to distinguish the crime of child-stealing from other thefts,.....	See C. O. 27th June, 1842, No. 98.
330	3rd Oct., 1827,	Requiring judges of circuit in future to include their observations on the state of the public buildings and roads, in the reports furnished at the conclusion of each jail delivery, ...	See Act XXIV., 1837.
332	19th Oct., 1827,	Transmitting extracts from the proceedings of the Nizamut Adawlut, containing their remarks and orders on the suttee reports for 1826, ...	See Reg. XVII., 1829.
333	16th Nov., 1827,	Requiring stricter attention in future to the Court's Circular Orders of the 3rd July and 16th October, 1816, ...	Temporary.

Volume II.

Number.	Date.	Subject.	Reasons for the omission.
2	20th Mar., 1828,	Circulating two printed copies of rules for the better management of public jails, ...	Temporary.
3	16th May, 1828,	In continuation of the Circular Order of the 26th April, 1827, forwarding copy of paragraph 61, of Government resolutions on the report of the superintendent of police, requiring the circuit judges to transmit regularly to him such part of the circuit reports as have reference to the police of the districts of their division, ...	Courts of Circuit abolished.
6	18th July, 1828,	Transmitting, with a view to remedy the inconvenience experienced in the verification of the statements of the convicts submitted by the magistrates, a form to contain the sentences of the Nizamut Adawlut and Courts of Circuit,	Superseded by C. O., 20th Nov., 1835. No. 183.
7	15th Aug., 1828,	Transmitting, with a view to obviate a doubt entertained with regard to the construction of Regulation XV., 1824, extract of a letter from the court to the judicial secretary, dated 15th August, 1828,	Reg. XV., 1824, repealed by Act IV., 1840.
8	26th Sept., 1828,	Transmitting to magistrates and joint-magistrates an extract (paragraph 30) of a letter from the late third judge of the Patna Court of Circuit, and desiring them to refrain from inflicting punishment on chowkeedars as much as possible, ...	See Reg. II., 1834.
11	3rd Oct., 1828,	Transmitting a copy of a letter from the Secretary to Government in the judicial department fixing the allowance of the law officers, when employed on circuit duties,...	Temporary.
12	3rd Oct., 1828,	Circulating an extract (paragraph 2) of a letter from the court to the judicial secretary, with copy of a minute from the officiating judge of the Dacca Court of Circuit on the subject of the employment of law officers in the capacity of sudder ameens, ...	Obsolete.

Number.	Date.	Subject.	Reasons for the omission.
13	28th Nov., 1828,	Transmitting extracts from the proceedings of the Nizamut Adawlut, containing their remarks and orders on the suttee report for 1827,	See Reg. XVII., 1829.
14	5th Dec., 1828,	Forwarding letter from the magistrate of city Dacca, and letter in reply relative to the provisions of Regulation III., 1801, ...	See Act I., 1848.
15	10th Jan., 1829,	Transmitting letter from the magistrate of Midnapore, recommending an improved drop for the execution of criminals, and inquiring if any objection exists to adopting it, ...	Superseded by C. O. No. 53, 23rd April, 1830.
16	27th Feb., 1829,	Forwarding extracts from Mr. Dashwood's report on the conclusion of the half-yearly session for the Patna division, and extracts from letter from the court to the judicial secretary with additional columns to be inserted in the list of heinous crimes, ...	Courts of Circuit abolished.
18	3rd April, 1829,	Transmitting copy of a letter and of its enclosure from the judicial secretary, respecting leave of absence certificates, and desiring that magistrates and joint-magistrates may be informed of the general orders therein contained, ...	Obsolete.
20	14th April, 1829,	Forwarding forms of abstract statements of prisoners punished without reference by the Court of Circuit, and by the magistrates and their asssistants, during the year 1828, and requiring such forms annually, ...	Superseded by C. O. No. 98, 27th June, 1842.
22	1st May, 1829,	Transmitting extract from judicial secretary's letter, directing that every case of violent affray in which the servants of an indigo factory may be engaged, shall be transmitted to the commissioner of circuit for examination, ...	Obsolete.
23	1st May, 1829,	Directing that the magistrates be instructed to prepare without delay a register of unexpired sentence, passed by the Nizamut Adawlut and courts, or commissioners of circuit, ...	Ditto.

Number.	Date.	Subject.	Reasons for the omission.
25	15th May, 1829,	Transmiting extract of a letter from the judicial secretary, declaring Abdool Ally incapable in future of serving Government in any public capacity, ...	Temporary.
29	26th June, 1829,	Transmitting form of statement of miscellaneous criminal business decided and depending in the courts, and directing its adoption in lieu of that at present in use, ...	See C. O., 27th June, 1842, No. 98.
31	24th July, 1829,	Directing that the magistrates be instructed to furnish a statement of the expenditure incurred in the support of the prisoners, and to offer any suggestions in their power for the improvement of prison discipline, ...	Obsolete.
33	7th Aug., 1829,	Forwarding additional instructions for the information and guidance of the commissioners of circuit and magistrates, with regard to the apprehension or summons of persons charged with petty offences,...	Unnecessary, See C. O. No. 107, 14th June, 1853.
34	7th Aug., 1829,	Transmitting copy of a letter from the judicial secretary to Government, and desiring that the commissioners of circuit will insert in their reports the date of commencing and finishing the sessions,	See Act XXIV., 1837.
35	21st Aug., 1829,	Forwarding extract of a letter from the judicial secretary to Government, intimating that it is not the intention of Government to build circuit houses at stations where they have not yet been erected, ...	Temporary.
36	21st Aug., 1829,	Transmitting extract from the proceedings of the court, containing remarks and orders on the reports of suttee for the year 1828, ...	See Reg. XVII., 1829.
37	28th Aug., 1829,	Transmitting copy of a letter from the commissioner of circuit, 15th division with reply relative to the suits cognizable under Regulation XV., 1824, ...	Reg. XV., 1824, repealed by Act IV., 1840.
38	28th Aug., 1829,	Transmitting extract of a letter from the fifth judge of the Benares Court of Circuit, with regard to the injuries received by prisoners from exposure to the sun and from the	See Act XVIII., 1844.

Number.	Date.	Subject.	Reasons for the omission.
		friction of their irons, with an extract from a letter written by order of the court to the judicial secretary on the subject, ...	
39	11th Sept., 1829,	Transmitting extract from a general letter from the Court of Directors and desiring that the magistrates report the number of prisoners confined in their jails for debt, with the periods they have been in confinement, ...	Temporary.
42	13th Nov., 1829,	Transmitting letter from the commissioner of circuit for the 10th division, and directing that all the required returns as therein specified be forwarded early in each month,	See Act XXIV., 1837.
44	8th Jan., 1830,	Forwarding a copy of a letter written to the commissioner of circuit for the 3rd division, relative to the transmission of periodical reports and statements at the conclusion of each session of jail delivery, and of the entire circuit, ...	Ditto.
46	22nd Jan., 1830,	Requesting opinion as to the result which might be expected from employing Europeans to superintend the labour of convicts, ...	Temporary.
49	26th Feb., 1830,	Directing the magistrates to submit to the Court of Circuit, on its arrival to hold the sessions, a list of depending cases instituted under Regulation XV., 1824, with an explanation showing why they have not been decided. Acquainting the magistrates that only two of the witnesses to a sooruthal should be bound over to give evidence before a Court of Circuit, ...	See Act IV., 1840.
50	26th Feb., 1830,	Statements of prisoners punished by the magistrates under Regulation VIII., 1828, for affrays, to be submitted to the commissioner of circuit monthly; calling the attentions of the magistrates and other judicial officers to the Circular Orders of the Sudder Dewanny Adawlut of 16th April, 1816, for fixing the holidays allowed by the court, and enjoining strict attention thereto, ...	Statement no longer in force. A list of holidays is now issued annually.

Number.	Date.	Subject.	Reasons for the omission.
51	26th Mar., 1830,	Directing the commissioners of circuit, in pursuance of the orders of Government, to discontinue the annual report formerly submitted by the superintendents of police, ...	Temporary.
56	30th July, 1830,	Requesting the commissioners, in pursuance of the orders of Government, to frame their comparisons of the state of crime in their general circuit reports, from the results of corresponding periods of two years, ...	See Act XXIV., 1837.
58	3rd Sept., 1830,	Instructions for the submission of general reports of divisions in which jail deliveries are held by different officers, ...	See Act VII., 1835.
59	24th Sept., 1830,	Execution of sentence awarding corporal punishment to be superintended by magistrates or their assistants, ...	See Act III., 1844.
60	24th Sept., 1830,	Directing attention to Circular Orders requiring a recapitulation in the general circuit reports, of dates of the commencement and termination of the sessions of jail delivery,	See Act VII., 1835.
61	1st Oct., 1830,	Communicating the orders of Government regarding the remuneration to be granted to persons officiating as law officers of the Courts of Circuit, under Regulation IV., 1830, ...	Courts of Circuit abolished. See No. 212, Vol. III.
62	12th Nov., 1830.	Calling the attention of the commissioners of circuit to former Circular Orders, requiring them to submit their general circuit reports within one month from the date of the conclusion of the business of the sessions, or to explain the cause of the delay, ...	See Act XXIV., 1837.
63	3rd Dec., 1830,	Transmitting extracts relating to the measures to be adopted in cases of affrays, and showing the means used by the magistrate of the city of Dacca to prevent the unnecessary summoning of persons charged with trivial offences, ...	See Act IV., 1840.
64	10th Dec., 1830,	Calling for the annual and monthly statements of causes under Regulation XV., 1824, according to the prescribed forms, ...	Reg. XV., 1824, repealed by Act IV., 1840. See No. 7, Vol. III.

Number.	Date.	Subject.	Reasons for the omission.
65	10th Dec., 1830,	Fordwarding copy of the above Circular Order to the commissioners of circuit, ...	See No. 7, Vol. III.
69	17th Dec., 1830,	Desiring whenever a special session of jail delivery may be held, that the reason for holding it be reported, ...	See Act VII., 1835.
70	31st Dec., 1830,	Directing the insertion of an additional column in the monthly reports of persons in confinement,...	See Act XVIII.,.1844.
71	31st Dec., 1830,	Directing the insertion in the registers of unexpired sentences, and in the abstract statements of heinous offences, certain additional columns, ...	See C. O., 27th June, 1842, No. 98.
72	7th Jan., 1831,	Commissioners of circuit to submit with their general circuit reports, a comparative statement of crimes during the periods embraced by the report and the corresponding period of the preceeding year according to a prescribed form,.....	See Act VII., 1835.
73	7th Jan., 1831,	Magistrates to include in one statement the prisoners punished by them under Regulations XII., 1818, and VIII., 1828, during each month, ...	See C. O., No. 98, 27th June, 1842.
74	7th Jan., 1831,	Applications by commissioners of circuit to Government to be relieved from circuit duties, to be accompanied by certain reports, ...	See Act VII., 1835.
75	7th Jan., 1831,	A revised construction of Regulation XV., 1824,.....	See Act IV., 1840.
76	7th Jan., 1831,	Requesting the commissioners of circuit to designate their capacity in all orders passed and letters written to the criminal department,	See C. O., No. 98, 27th June, 1842.
77	28th Jan., 1831,	The general circuit reports on the state of the districts comprised in each division during the six months completed on the 30th June and 31st December, respectively, to be submitted as early as possible in the months of July and January, ...	See Act VII., 1835.
79	25th Mar., 1831,	Communicating the orders of Government, fixing the rate of allowance for travelling charges of the law and ministerial officers of Courts of Circuit,.....	See C. O., No. 212. Vol. III.

Number.	Date.	Subject.	Reasons for the omission.
80	25th Mar., 1831,	Directing the commissioners of circuit to inspect at the sessions of jail delivery, the books of the registers of deeds, and to report irregularities, ...	See Act VII., 1835.
81	6th May, 1831,	Transmitting modified forms of the half-yearly statements of heinous offences, and of the calendars of persons convicted and acquitted by the magistrates, with instructions for numbering the statements which accompany the general circuit reports, ...	See C. O., No. 98. 27th June, 1842.
83	27th May, 1831,	Enjoining greater regularity in the transmission of the prescribed periodical reports and statements,...	Ditto.
86	15th July, 1831,	General circuit reports for the first and second sessions of each year, to be submitted as soon as practicable after the 1st July and 1st January respectively, ...	Ditto.
89	18th Nov., 1831,	Modifying the comparative statement prescribed by Circular Order, 7th January 1831, ...	Ditto.
90	25th Nov., 1831,	Instructions to the session judges regarding the monthly statements to be submitted by them, ...	Ditto.
91	25th Nov., 1831,	Forwarding copies of the above circular letter, and requesting the commissioners to insert an additional column in their statements of prisoners punished without reference, ...	Ditto.
92	30th Dec., 1831,	The transmission of certain monthly statements of magistrates heretofore forwarded through the commissioners to be discontinued,...	Ditto.
93	10th Feb., 1832,	Magistrates to forward half-yearly statements of summary suits to the commissioners, who are from them to prepare abstracts to be appended to their half-yearly reports on the state of the police, &c., ...	Superseded. See C. O., No. 7, Vol. III.
94	10th Feb., 1832,	Commissioners of circuit competent to permit the officers subordinate to them to proceed into the interior of their districts, ...	Ditto.

Number.	Date.	Subject.	Reasons for the omission.
96	L. P., 9th Mar., 1832, ... W. P., 12th ditto, ...	Transmitting a letter from Government to judge of Seeharunpore, regarding the transfer of his cutcherry and part of his establishment to the magistrate,.....	Temporary.
99	9th April, 1832,	The submission of the Persian half-yearly lists of prisoners in confinement, to be discontinued, ...	Temporary.
101	27th April, 1832,	Directing insertion in letters accompanying the jail delivery statements, a memorandum showing how the cases committed for trial were disposed of. Blank jail delivery statements not to be submitted, but those connected with the half-yearly general report to be submitted blank as heretofore, if there be no information to communicate, ...	See C. O, No. 98, 27th June, 1842.
102	11th May, 1832,	Examinations not to be taken by native officers in the absence of the magistrate or his assistant, deviation from this rule to be reported to the court by the commissioners, ...	Identical with No. 103.
105	18th May, 1832,	One jail delivery report only to be furnished for each month, to ininclude all cases proceeded upon during that month, to be submitted on or before the 15th of the ensuing month, in the event of no sessions being held in any month, a report to that effect to be transmitted within the period prescribed, ...	See C. O., No. 98, 27th June, 1842.
106	8th June, 1832,	Transmitting an extract from a letter from Government, relative to the revision of the scale of the travelling charges allowed to law officers of Circuit Courts in the Western Provinces,.....	See C. O., No. 212, Vol. III.
107	22nd June, 1832,	Circuit reports to be termed "general police reports," to be submitted with regularity and dispatch,	Act XXIV., 1837. See C. O., No. 98, 27th June, 1842,
112	27th July, 1832,	Pointing out an eratum in Circular Order of the 28th August, 1829,	Error corrected.
114	27th July, 1832,	Copy of the memorandum required by the Circular Order of 27th April, 1832, to be furnished by the sessions judges to the commissioners to enable them to prepare a half-yearly calendar of trials, ...	See C. O., No. 7, Vol. III.

Number.	Date.	Subject.	Reasons for the omission.
116	10th Aug., 1832,	Circuit reports to be termed "general police reports," to be submitted with regularity and dispatch,	See C. O., No. 98, 27th June, 1842.
119	24th Aug., 1832,	Directing the session judges on the conclusion of sessions to transmit a statement agreeably to the annexed form, to the commissioners of circuit, for the preparation of their general circuit report. Warrants to the magistrates to carry the sentences passed by the session judges into execution to be issued within two days from the close of the proceedings, ...	See C. O., No. 7, Vol. III.
120	28th Sept., 1832,	Communicating the orders of Government regarding the travelling allowances of law officers of Circuit Courts in the Lower Provinces, ...	See C. O., No. 212, Vol. III.
127	W. P., 16th Nov., 1832, L. P., 18th Jan., 1833, ...	Circulating a letter from Government relating to the employment of natives as punchayets, assessors or jurors, with forms for showing the quantity of work done with their assistance,.....	See C. O., No. 98, 27th June, 1842.
136	6th April, 1833,	Instructions regarding the preparation of annual and half-yearly criminal reports, ...	See C. O., No. 7, Vol. III.
138	16th Aug., 1833,	The orders of Government in the revenue department of the 1st July, 1833, regarding the control to be exercised by commissioners over the collectors declared equally applicable to the criminal department,...	Ditto.
142	31st Jan., 1834,	Orders of magistrates regarding the appointment and removal of police officers, are considered subject to those of the commissioners, ...	See Act XXIV., 1837.
144	15th May, 1834,	Commissioners and session judges to note in letters submitting their jail delivery statements, the number of days employed in the sessions, and mode in which the prisoners were disposed of, ...	See C. O., No. 98, 27th June, 1842.
145	6th June, 1834,	Commissioners, holding sessions of jail delivery, to submit statements similar to those prescribed for session judges by Circular Order, 25th November, 1831,.....	

Number.	Date.	Subject.	Reasons for the omission.
148	8th Aug., 1834, Para. 2, omitted,	In the marginal note of the letters referring trials to the N. A., the date of the apprehension and commitment of each prisoner, and the date on which the crime is alleged to have been committed, is to be entered. And in column 7 of the statements of prisoners convicted and acquitted, the date on which each prisoner was committed for trial, ...	See C. O., No. 98, 27th June, 1842.
152	24th Oct., 1834,	Criminal trials sent back to session judges and commissioners, for further evidence to be noticed in the letter forwarding the jail delivery statements, until they are finally disposed of, ...	Ditto.
153	21st Nov., 1834,	Instructions for the preparation of the annual reports on the administration of criminal justice,.....	Ditto.
154	L. P., 21st Nov., 1834, W. P., 6th Feb., 1835, ...	Prescribing form of statement for trials referred to the Nizamut Adawlut at each session of jail delivery, ...	Ditto.
155	12th Dec., 1834,	Prescribing amended forms of criminal statements connected with the reports on the state of the police and administration of criminal justice, with instructions for the preparation of them,.....	See C. O., No. 7, Vol. III.
158	31st Jan., 1835,	The salaries of uncovenanted assistants who are now paid in siccas, to be reduced to sonat rupees by the addition of 4½ per cent.,.....	Temporary.
161	6th Feb., 1835,	Rules for defining the duties to be performed by assistants, and other officers in charge of the office of civil and session judge. The judge on delivering over charge to an officer not vested with the powers of judge, will certify that he has called the attention of the relieving officer to these rules,	This Circular is printed in the Dewanny Volume.
164	L. P., 6th Mar., 1835, ... W. P., 3rd April, 1835,	Communicating a resolution of Government on the subject of the reports relative to the qualifications and characters of covenanted officers,	Obsolete.
165	3rd April, 1835,	Magistrates required to report in their half-yearly statements of criminal prisoners, their reasons for detaining insane prisoners in their	See Act XVIII., 1844, and C. O., No. 180, Vol. III.

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		jails instead of forwarding them to the insane hospital of the division,...	
176	31st July, 1835,	Prescribing amended forms of criminal statements connected with the reports on the state of the police and administration of criminal justice, with instructions for the preparation of them,.....	See C. O., No. 98, 27th June, 1842
177	14th Aug., 1835,	In districts to which Act VII., 1835, has been extended, appeals from orders for the removal of officers in the establishment of the magistrate and collector lie to the commissioner, and not to the session judge,.....	See Act XXIV., 1837.
178	21st Aug., 1835,	The register of warrants of criminal sentences, prescribed by Circular Order, 15th May, 1835, to supersede that prescribed by Circular Order, 1st May, 1829,.....	C. O., 15th May, 1835, is published.
180	25th Sept., 1835,	Authorizing the destruction of certain Persian records of the magistrates' courts of a date prior to the 31st December, 1820, ...	Temporary.
185	27th Nov., 1835,	Observations and remarks regarding the preparations of the criminal statements required by Circular Order, 31st July, 1835, to be submitted to Nizamut Adawlut Western Provinces,.....	See C. O., No. 98, 27th June, 1842.
187	24th Dec., 1835,	Explanations to be furnished by the civil surgeons and magistrates, whenever the deaths among the prisoners exceed 1 per cent. per mensem, ...	Ditto.
188	24th Dec., 1835,	Requiring half-yearly lists of convicts sentenced to imprisonment for life in transportation beyond sea in a prescribed form,.....	See Act XVIII., 1844.
189	2nd Jan., 1836,	Session judges to mention the number of persons examined by them at each session of jail delivery,	See C. O., No. 98, 27th June, 1842.
190	15th Jan., 1836,	Observations and remarks regarding the preparation and revision of the criminal statements required to be submitted to the Nizamut Adawlut Lower Provinces, by Circular Order, 12th December, 1835,...	Ditto.

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192	5th Feb., 1836,	Prohibiting the appointment of the same individual to the joint office of Mahomedan law officer and native judge,.....	Modified by C. O., No. 164, p. 467 of Dewanny Circulars, new edition.
196	15th April, 1836,	Showing in what manner persons charged with killing thieves, should be entered in the criminal statements,	See C. O., No. 98, 27th June, 1842.
198	27th May, 1836,	Defining the powers transferred from the commissioners to the session judges under Act VII., 1835,...	See Act XXIV., 1837.
199	27th May, 1836,	Showing in what manner persons charged with killing thieves, are to be entered in the criminal statements,	See C. O., No. 98, 27th June, 1842.
200	8th July, 1836,	Circular Order, 15th April, 1836, not to be considered as barring a a commitment for murder, in cases of killing thieves when the facts of the case may render it necessary, ...	Ditto.
201	15th July, 1836.	Instructions for the preparation of the statements required by the Circular Order, 31st July, 1835.	Ditto.
203	16th Sept., 1836,	Prescribing form of statement for trials called for by the Nizamut Adawlut; also of letter submitting jail delivery statements, ...	Ditto.
205	30th Sept., 1836,	Further instructions for the preparation of the statements prescribed by Circular Order, 12th December, 1834, ...	Ditto.
206	7th Oct., 1836,	Instructions for the preparation and early submission of annual criminal statements of 1836, ...	Ditto.
208	W. P., 14th Oct., 1836,... L. P., 16th Dec., 1836.	Prescribing an amended form of calendar of trials postponed and not commenced upon,.....	Ditto.
209	21st Oct., 1836,	Explanations to be furnished by commissioners and session judges, when any appeals from orders of magistrate are undecided for a period exceeding three months, ...	Ditto.
210	21st Oct., 1836,	Trials called for by the Nizamut Adawlut to be included in the monthly register of trials referred, required by Circular Orders of the 21st November, 1834,.....	Ditto.
213	18th Nov., 1836.	Magistrates enjoined to take care that prisoners sentenced to imprisonment for life be duly marked by Gedena,.....	See Act II., 1849.

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215	2nd Dec, 1836,	Declaring the inspection by Commissioners of circuit of the register books of the civil courts unnecessary, ...	The order requiring this has not been published.
217	23rd Dec., 1836,	Additional information required in the annual statement No. 15, ...	See C. O. No. 98, 27th June, 1842.
222	10th Feb, 1837,	Enjoining attention to the rules for reporting on the official character and conduct of the several public functionaries laid down in the notification of the Government of Bengal, dated the 20th December, 1836,	Rescinded by Government.
224	24th Feb., 1837,	Instructions for the submission of the monthly and other periodical statements, in districts in which the duties of commissioners connected with criminal justice, have been transferred to the session judge, ...	See C. O. No. 98, 27th June, 1842.
226	7th April, 1837,	Regarding the power to be exercised by session judges vested with the powers of commissioner, under Act VII., 1835, ...	See Act XXIV., 1837.
227	7th April, 1837,	Enjoining attention to the rules for reporting on the official character and conduct of the several public functionaries laid down in the notification of the Government of Bengal, dated the 20th December, 1836,	Rescinded by Government.
228	21st April, 1837,	Commissioners to report half-yearly what districts they have visited during the past six months, ...	See C. O. No. 98, 27th June, 1842.
230	3rd Feb., 1837,	The statements required by Circular Order, 14th April, 1829, are to be furnished by the session judges,	Ditto.
232	19th May, 1837,	The highest and lowest rates of fine imposed, to be mentioned in the magistrate's monthly statement, ...	Ditto.
234	9th June, 1837,	Observations regarding the preparation of the magistrate's monthly statements,.....	Ditto.
237	7th July, 1837,	Revised forms of the monthly criminal statements Nos. 1 to 8,.....	Ditto.
240	21st July, 1837,	Appeals from magistrate's awards against police officers, for breach of duty as such, preferrable to commissioners as superintendents of police, ...	See Act XXXI., 1841.
242	18th Aug., 1837,	Annual statements prescribed by Circular Order, 14th April, 1829, dispensed with,.....	See C. O. No. 98, 27th June, 1842.

Number.	Date.	Subject.	Reasons for the omission.
243	18th Aug., 1837,	The Persian translation required of depositions in the vernacular languages, to be submitted in a separate nuthee, ...	See Act XXIX., 1837.
244	25th Aug., 1837,	Directing the use of amended forms of statements, Nos. XI. and XII, of Circular Order, 12th December, 1834,	See C. O No. 98, 27th June, 1842.
245	25th Aug., 1837,	Directing the use of an amended form of statement No. XII of Circular Order, 12th December, 1834, ...	Ditto.
248	29th Sept., 1837,	In cases of punishment without reference, the execution of a sentence of tusheer to be deferred for three months, ...	See Act II., 1849.
249	L. P., 13th Nov., 1837, W. P., 8th Dec., 1837, ...	All crimes ascertained to have been committed during the month or year, to be entered in column 3, of magistrate's statement, No. I., ...	See C. O. No. 98, 27th June, 1842.

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Number.	Date.	Subject.	Reasons for the omission.
2	W. P., 15th Nov., 1837,...	Requesting that in their future monthly miscellaneous criminal statement, No. I, the magistrates will insert a note in the column of remarks, indicating the particulars specified, ...	See C. O. No. 98, 27th June, 1842.
6	L. P., 2nd Feb., 1838, ...	Directing an alteration in statement No. XI, with a view to distinguish appeals connected with criminal trials from those which arise out of miscellaneous cases,.....	Ditto.
9	W. P., 25th May, 1838,...	It being held that Sections 5 and 7, Act XXIV., 1837, are in force in districts to which Act VII., 1835, has been extended. appeals from all orders of the magistrates in judicial proceedings, including cases under Regulation XV., 1824, lie to the session judges. The periodical statements noted, and applications for the release of prisoners to be submitted to the Court through them.	See Act XXXI., 1841.
12	L. P., 22nd June, 1838,...	Requesting the commissioners of circuit mentioned to transmit to the session judges, the records of their late offices, and those of the late Courts of Circuit,.....	Temporary.
13	L P., 22nd June, 1838,...	Intimating to the session judges the issue of the foregoing circular,	Ditto.
14	L. P., 27th July, 1838, ...	Forwarding resolution passed by the deputy governor, declarative of the controlling authority of the session judges, in regard to the employment of convicts, ...	See Act XVIII., 1844.
15	W. P., 2nd Nov., 1838, ...	Transmitting, with the sanction of the governor general, a resolution declaratory of the controlling authority of the session judges, under Acts VII., 1835, and XXIV., 1837, in regard to the employment of convicts; and directing those officers to give due consideration to the suggestions of the commissioners, ...	Ditto.

Number.	Date.	Subject.	Reasons for the omission.
24	L. P., 26th April, 1839,	Resolution of Government for granting rations to prisoners in lieu of a money allowance,.....	See Act XVIII. 1844.
26	W. P., 31st May, 1839,	Rules for the introduction of the vernacular language, in lieu of the Persian, in the criminal courts of the North-Western Provinces, ...	Temporary.
27	W. P.. 20th June, 1839,	Instructions as to the proper mode of filling up No. III., of the monthly criminal statements, ...	See C. O. No. 98, 27th June, 1842.
28	L. P., 23rd Aug., 1839,	Instructions regarding the standard of the daily allowance of food for convicts, ...	See Act XVIII., 1844.
32	L. and W. P., 18th Oct., 1839,	Authorizing the correction of an error in the Persian translation of Regulation IX., 1807, ...	Temporary; error corrected.
36	L. P., 22nd Nov, 1839, W. P., 10th Jan., 1840,...	Copy of the roobukaree of commitment to be forwarded with the sessions statements, whenever a commitment is declared to have been made on insufficient grounds,	Superseded by C. O. No. 57, Vol. III.
43	L. P., 3rd, April, 1840, W. P., 1st May, 1840,	The words "Act IV., 1840" to be substituted for "Regulation XV., 1824" in the heading of the monthly statement No. VI., ...	See C. O. No. 98, 27th June, 1842.
45	L. and W. P., 22d Apr., 1840,	Calling for a report of the number of wards in the jails of the several districts appropriable to the confinement of persons under sentence of imprisonment for life, ...	See Act XVIII., 1844.
47	L. P., 8th May, 1840, W. P., 20th Feb., 1840, ..	Prescribing the addition of a note to statement No. XXI., column 11, showing the distribution and exact location of prisoners in jail, ...	This statement is submitted to Government under Act XVIII., 1844.
48	W. Court, 15th May, 1840, ..	With reference to Act V., of 1840, transmitting, with instructions how to administer the same, an Urdu translation of the affirmation enjoined to be taken by all Hindu and Mahomedan deponents, ...	See C. O., No. 44 Vol. III. which is the same thing.
49	L. P, 29th May, 1840,	Calling attention to the 3rd paragraph of the Circular Order, No. 234, 9th June, 1837, which requires session judges to ascertain the cause of persons charged with bailable offences being detained in custody, ...	See C. O. No. 98, 27th June, 1842.

Number.	Date.	Subject.	Reasons for the omission.
54	L. P, 12th June, 1840,.. W. P., 24th July, 1840,...	Rule regarding the application of the provisions of Section 2, Act IV., 1840, to cases of distraint and seizure by land-holders of the lands of their tenants, ...	Rescinded by C. O. No. 37, Vol. IV.
56	L. P., 10th July, 1840,...	Disposing with the memorandum on the back of the usual letter, submitting the monthly session's statements, ...	See C. O. No. 98, 27th June, 1842.
62	L. and W. P., 4th Sept., 1840,	Prescribing form of sentence and engagement of security for adoption, in cases of persons convicted of having committed any penal act, while in a state of insanity, ...	Rescinded by C. O. No. 31, Vol. IV.
67	L P., 16th Oct., 1840,... W. P., 4th Jan., 1841, ...	English stationery not to be charged for in contingent bills, but to be obtained by indent from the Government stores, ...	See orders of superintendent of stationery.
69	L. P., 30th Oct., 1840, ... W. P., 1st Mar., 1841, ...	Circulating copies of rules for the management and control of native insane hospitals, ...	See Act XVIII., 1844.
71	L. and W. P., 13th Nov., 1840,	Perscribing amendment of columns 2 and 5, of the statement of postponed trials No. III., ...	See C. O. No. 98, 27th June, 1842.
72	W. P., 13th Nov., 1840,...	Enjoining the observance of Circular No. 20, dated 2nd July, 1830, requiring each letter addressed to the court to be accompanied by an abstract of its contents, ...	Obsolete.
74	W. P., 11th Dec., 1840,...	Construction of kutcha buildings authorized, whenever there may be really more prisoners requiring lodgment in a jail than it can accommodate, but such expedient when had recourse to, to be reported, ...	See Act XVIII., 1844.
75	W. P., 11th Dec., 1840,...	Magistrates to communicate with executive officers, for the purpose of determining the number of prisoners their jails are capable of holding, ...	Superseded by Circular of inspector of prisons, No. 5, dated 1st July, 1847.
78	L. P., 26th Dec., 1840,...	Recommending to the consideration of officers in charge of jails, a suggestion of the Medical Board for grinding within the jail, the otta used by prisoners, ...	See Act XVIII., 1844.
79	W. P., 23rd Jan., 1841,...	Remarks on the attention to be paid to the proportion between acquittals and convictions in the fouzdaree courts, and on the mode of calculating the duration of cases	See C. O. No. 98, 27th June, 1842.

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		when uncontrollable circumstances intervene, ...	
80	L. P. 19th Feb., 1841,...	Instructions regarding the entry of heinous and petty offences and appeals, in the abstract statement of pending business appended to the magistrate's statement No. I., ...	See C. O. No. 98, 27th June, 1842.
86	W. P., 7th May, 1841,...	Criminal statements Nos. I. to VII., to be sent up under signature of magistrate, as responsible officer and not of joint-magistrate, ...	Ditto.
88	W. P.. 2nd July, 1841,...	Modifications in the ration system of the jails in the N. W. Provinces. Certain modifications announced of rules in force regarding rations of food to convicts, in respect to the quantity and quality of food and mode of supplying it; to the provisions of fuel, and to arrangements for saving and washing. Plan of forming messes to be encouraged, but no coersive means used without orders to that effect, ... Two points noticed as worthy of attention in relation to prisoner's health, viz., the purchasing wheat for jail use and grinding it by convict labour, and provisions of means for ablution and personal cleanliness of inmates of the jail, ...	Superseded by Circular Order No. 33, of inspector of prisons.
89	L. P., 9th July, 1841,...	Rules regarding rations in the jails in the Lower Provinces, in supercession of former orders, ...	See Act XXIII., 1844.
101	W. P., 25th Jan., 1842,...	Plan circulated for general information, for employment at a corn-mill of convicts sentenced to imprisonment for life within the jail, ...	Obsolete.
105	W. P., 4th March, 1842,	Notification enjoined in the *Agra Gazette*, of escape of prisoners,.....	Obsolete.
107	W. P., 4th May, 1842,	An increase of rations to be granted to labouring convicts under particular circumstances. See Circular Order, No. 111.	Superseded by Circular Order No. 33, of inspector of prisons.
108	L. P., 10th June, 1842, W. P., 1st July, 1842,	Instructions for properly marking life prisoners with *godna*, ...	See Act XVIII., 1844.
111	W. P., 24th June, 1842,	Report to be made in instances of magistrates granting increase of rations to certain convicts under Circular Order, No. 107, 4th May, 1842,	Superseded by Circular Order, No. 33, of inspector of prisons.

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114	L. P., 1st July, 1842,	Manufacture of paper by convicts,	See Act XVIII., 1844.
127	L. P., 27th Jan., 1843,...	Rule regarding lodging, feeding and clothing of convicts under charge of executive officers, ...	Ditto.
130	L. P., 24th Feb., 1843,	Rules to be observed by the sessions courts in recommending sentence of perpetual imprisonment,...	Superseded by C. O. No. 229, Vol. III.
139	L. P., 23rd June, 1843,	Two cooked meals a day to prisoners, authorized, ...	See Act XVIII., 1844.
143	L. P., 1st Sep., 1843, ...	Increased rations to labouring prisoners in two portions, authorized.	Ditto.
145	L. P., 6th Oct., 1844, ...	Table of rations for labouring and non-labouring prisoners. Instructions regarding the diet and labour of convicts, ventilation of jails, &c.,	Ditto.
167	W. P., 21st May, 1844,...	Intimates, that the military board have authorized the white-washing of jail wards at stated periods, and oftener, if needful, on the written application of the officers,.....	Rescinded by Circular Order No. 5, of inspector of prisons.
168	W. P., 21st May, 1844,...	Notifies the result of correspondence on the present system of dieting and labour, and directs the particular attention of the officers in charge of jails to the propriety of allowing meridian intermission of labour, and proportioning labour exacted to the physical ability of the prisoners, ...	Rescinded by Circular Order No. 5, of inspector of prisons.
170	W. P., 19th June, 1844,..	With reference to Circular Order, No. 167, dated 21st ultimo, notifies, the magistrates and other officers in charge of jails, will be held responsible for their being kept in pure and cleanly condition,.....	Rescinded by Circular of inspector of prisons.
183	L. and W. P., 27th Sept., 1844, ...	In modification of Circulars No. 233, 8th May, 1820, and No. 307, 11th February, 1825, session judges declared to be empowered finally to acquit persons proved to have committed penal offences while labouring under insanity, but required to report such cases for the orders of the court regarding the safe custody of the prisoner,.....	Rescinded by C.O. No. 31, Vol. IV.

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190	W. P., 27th Dec., 1844,...	Magistrates requiring to continue transmission as heretofore, for orders of Court, of all applications for discharge of prisoners certified to be blind, &c., and attention called to Circular Order, No. 218, dated 6th January, 1837,.....	In force, but included in Govt. Notifications No. 3,200 of 6th June, 1848, and modified by the Circular Order of inspector of prisons, No. 31, of the 21st June, 1852.
201	L. P., 25th April, 1845,	Report on the acquittal of insanes, to be entered in sessions statement, No. VIII.	Rescinded by C. O. No. 31, of Vol. IV.
233	L. P., 25th Sept., 1846,..	Officers in charge of monies to forward their accounts in time to enable the accountant to close the public accounts on the prescribed dates,.....	Unnecessary.

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5. Construction No. 940, relating to appeals from orders of officers attached to jails declared to be superseded by Act XXXI. 1841, the second section of which provides that all orders passed by a Magistrate in judicial proceedings other than criminal trials, are appealable to the session judge. L. P., 16th September, and W. P. 15th October, 1842, No. 119, Vol. III., ... 337

6. Petitions of appeal, if presented within the period of appeal, to be received by the magistrates and session judges respectively for transmission to the appellate court. L. P., 19th May 1843, No. 137, Vol. III., ... 345

7. Para. 1, Circular Order No. 100, modified. Appeals from orders of officers vested with powers of an assistant awarding a punishment beyond the limitation in Section 8, Regulation IX. of 1793, lie to the session judge. L. P., 9th February 1844, No. 156, Vol. III., ... 365

8. Orders passed by magistrates under Act XXI. 1841, or the nuisance act, are appealable to session judges only. L. and W. P., 20th February 1844, No. 157, Vol., III. 366

9. Rule for calculating the period within which an appeal should be lodged or any official act done. L. P., 1st March, and W. P., 12th April, 1844, No. 158, Vol. III., ... 366

10. Paragraph 1 of Circular Order, Nizamut Adawlut, No. 100, dated 28th January 1842, superseded. All appeals from orders passed by assistants to magistrates and others under the provisions of Section 20, Regulation IX. 1807, and Clause 3, Section 3, Regulation III. 1821, lie to the session judge. W. P., 2nd March, 1844, No. 159, Vol. III, ... 367

11. It is incumbent on the appellate authorities, with reference to Section 2, Act XXXI. 1841 to examine the proceedings of the lower courts in every case appealed. W. P., 14th May 1844, No. 165, Vol III., 371

12. Rule of practice adopted by the Nizamut Adawlut, N. W. P. in receiving petitions of appeal from sentences passed in criminal trials. W. P., 17th May 1844, No. 166, Vol. III., ... 371

13. Session judges when transmitting petitions of appeal to the Nizamut Adawlut, to state the date of the sentence appealed from, and the date of the presentation of the petition L. P., 19th July 1844, No. 172, Vol. III, ... 373

14. Appeals from sentences or orders of an assistant with special powers, passed in a criminal trial or judicial proceeding awarding punishment under Section 2, Act XXXI. 1841, lie to officers exercising the powers of a magistrate. L. P., 25th July, and W. P., 12th September, 1845, No. 210, Vol. III., ... 396

15 Rule regarding transmission of original records of trial and commitment with petitions of appeal from orders of sessions courts. L. P., 20th June 1849, No. 26, Vol. IV., ... 432

16. Appeals from orders of a magistrate maintaining village chowkedars in the possession of lands set apart for their subsistence, lie not to the sessions judge, but to the superintendent of police. The same rule is applicable to appeals from orders enforcing payment of their allowances in money or other kinds. W. P., 14th May 1852, No. 84, Vol IV., ... 475

17. Magisterial authorities will receive petitions of appeal against their sentences and orders, if presented within the period of appeal; and sessions judges will pass orders on them notwithstanding the non-appearance of the appellant. W. P., 19th February 1853, No. 104, Vol. IV., ... 495

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„ " Duties of officers in charge of office of civil and sessions judge."
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1. Forms of applications to the Nizamut Adawlut, for orders for the removal of convicts sentenced to banishment or transportation. L. and W. P., 20th November 1835, No. 183, Vol. II., ... 189

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2. Authority to offer conditional pardon to dacoit approvers according to the form circulated. W. P., 27th September 1839, No. 30, Vol. III., ... 230
3. Criminal authorities to exercise with caution the powers conferred on them by Act XXIV. 1843, of employing approvers as evidence against their accomplices. L. P., 31st January, and W. P., 18th April, 1845, No. 195, Vol. III., ... 388

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1. Definition of Arson. Other acts of incendiarism may be disposed of by the magistrate or committed to the sessions. The special circumstances to be mentioned in the roobukary of commitment. L. and W. P., 5th June 1848, No. 13, Vol. IV.,... 424
2. A case, in which the sentence awardable by the sessions court is insufficient, is referrible to the Nizamut Adawlut.—*Ibid.*
3. Renderings in the vernacular of "arson" and "incendiarism." W. P., 22nd July 1848, No. 16, Vol. IV.,... 426

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1. Powers of magistrates to dispose of certain descriptions of cases of assault and affray attended with wounding, instead of committing them to the sessions. L. and W. P., 12th June 1840, No. 53, Vol. III., ... 242
2. The rule in paragraph 4 of Circular Order, No. 53, 12th June 1840, extended to cases of assault. W. P., 25th January, and L. P., 25th February, 1842, No. 102, Vol. III., ... 329

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1. Assistants to magistrates with special powers under Clause 3, Section 2, Regulation III. 1821, cannot award a longer term of

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Course to be pursued by a magistrate in requiring collectors to attach the lands of absentees, under the provisions of Regulation XI. of 1793. L. P., 28th September 1853, No. 112, Vol. IV., ... 505

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See "Budmash."
„ "Security for good Conduct."

BAIL.

Magisterial authorities to appoint a particular day for the attendance in court of persons on bail, when more than one week is likely to intervene between the proceedings, and to submit at each sessions, a statement showing the names of persons at large on bail, the offences with which they were charged, the period during which the cases were pending, and the reasons of their not being disposed of. 2nd April 1824, No. 287, Vol. I., ... 83

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An amended Bengalee translation of the bail bond in Clause 4, Section 3, Regulation IX. of 1807. L. P., 24th September 1852, No. 92, Vol. IV., ... 482

BAILABLE OFFENCES.

1. Magistrates are not to confine in fetters, any person for trial before the Court of Circuit, who may be charged with a bailable offence, and committed to prison from inability to find bail, or who, though not admitted to bail, may not have been charged with a heinous offence, such as may appear to render the use of irons indispensably requisite for his secure custody. 4th January 1805, No. 40, Vol. I., ... 10

2. With a view of obviating the hardship to which individuals apprehended on bailable charges are unnecessarily exposed, from the magistrate's omission to record a specific declaration that security will be received, and to specify its amount, magistrates will lose no time in apprising such individuals, that security will be received for their appearance, stating at the same time the amount in which it may be required. 10th January 1823, No. 272, Vol. I., ... 80

3. Abstract of Rules contained in Regulation XX. 1817, for the conduct of Police Officers in demanding bail from parties charged with bailable offences. W. P. 27th January 1849, No. 21, ... 428

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In cases of boundary disputes in pergunnahs of which the professional survey has been completed, the thakbust papers and survey maps to be sent for and inspected before coming to a decision. L. P., 26th June 1851, No. 61, Vol. IV., ... 454

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Advocate General's opinion regarding the amenability of British officers and soldiers to magistrates, under the Statute 53, Geo. III., Chapter 155. W. P., 31st August, and L. P. 20th September, 1852, No. 91, Vol. IV, ... 481

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See "European British Subjects."
„ "Natives."
„ "Insane British Subjects."
„ "Fines."
„ "Witnesses."
„ "British Officers and Soldiers."

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A magistrate will proceed without delay to make inquiry into the truth of the suspicion of bad livelihood, or the information of notoriety of bad character, on which he may have apprehended any person, and will, if he be able to give sufficient bail, admit such person to bail during the enquiry. 17th January 1811, No. 81, Vol. I., ... 31

BURGLARY.

Magistrates to exercise their discretion in placing prisoners charged with burglary in fetters or not, according to the nature of the offence and the character and circumstances of each prisoner, merely having in view his safe custody. 19th November 1818, No. 210, Vol. I., ... 70

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C.

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See "Writs."
„ "Processes."
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CALCUTTA, CRIMINALS APPREHENDED IN.

1. Magistrates to depute an officer of their own courts to receive charge of any individual apprehended in Calcutta at their request. 9th October 1829, No 40, Vol. II, ... 111
2. Attention called to Act XXIII. of 1840, and Circular Order, No. 40, dated 9th October 1829. L. and W. P., 14th December 1850, No. 49, Vol. IV., ... 444

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1. To prevent an indefinite detention of the courts of circuit at the several stations, magistrates are restricted to one supplementary calendar of persons committed during the trial, of those in the original calendar. 27th December 1810, No. 77, Vol. 1., ... 28
2. The calendar of commitment, in cases of forgery, embezzlement, and the like, to contain a list of all the written documents produced before the court of session judge or commissioner. L and W. P., 28th October 1836, No. 211, Vol. II., ... 198
3. Grounds of apprehension of prisoners to be inserted in the calendar. L. P., 9th June 1848, No 14, Vol. IV., ... 425
4. Magisterial authorities will, in their calendar of commitment, under the columns of circumstantial evidence, classify witnesses according to the nature of their evidence, indicating by a heading in red ink the subject to which the witnesses are expected to testify. L. P., 31st August 1853, No. 111, Vol. IV., ... 501

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„ "Commitments."
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CANAL LAW, BREACH OF.

1. A trial held under Section 6, Act VII. of 1845, for a breach of the canal law, will be proceeded with as a criminal trial under the general Regulations. W. P., 13th January 1853, No. 101, Vol. IV., ... 490

2. Records of cases disposed of under the enactment, by officers invested under Section 8, Act VII. 1845, with power of joint magistrate, will be sent at the close of each month to the magistrate of the zillah, who will place them among his records, and enter them in his statements as prescribed in Circular Order, No. 398, 11th April 1850. *Ibid.*

CANCELMENT OF COMMITMENTS.

See "Commitments,"

CAPIAS, WRITS OF.

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CAPITAL CASES.

Error in the rendering of the words "capital cases" in the 2nd paragraph of Circular Order 28th December 1850, in the translation published in the *Agra Government Gazette*, corrected. W. P., 2nd March 1853, No. 105, Vol. IV., ... 496

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See "Warrants in capital cases."

CAPITAL SENTENCES.

1. In cases of capital punishment, copy of sentence of the Nizamut Adawlut will be sent to the magistrate, along with the warrant for execution. 13th March 1804, No. 32, Vol. I., ... 8

2. Rules respecting the execution of persons, sentenced to suffer death. 5th March 1810, No. 65, Vol. I., ... 18

3. Period of carrying into execution sentences of capital punishment, to be left to the discretion of the magistrate. 24th October 1811, No. 103, Vol. I., ... 93

4 Certificates of execution of capital sentences to state the occurrence or non-occurrence of accidents, &c. L. and W. P., 6th January 1842, No. 99, Vol. III., ... 328

5. The body of a person sentenced to death to remain suspended for one hour at least, and not even then to be removed until death be ascertained to have taken place. W. P., 27th November 1848, No. 18, L. P., 27th November 1848, No. 19, Vol IV., ... 426, 427

6. Circular Order of the 5th March 1810 regarding executions, modified. L. and W. P., 29th June 1850, No. 42, Vol. IV., ... 441

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See "Contracts for furnishing Hackeries and Cattle."

CERTIFICATES.

1. Prisoners sentenced to imprisonment for a limited period, shall be furnished with certificates, showing when their sentences will expire, with a view of preventing their being confined beyond their sentences. 14th May 1824, No. 292, Vol I., ... 85

2. Magistrates to insert in the certificates alluded to in the Circular Order of the 14th May 1824, the age and personal description of the prisoner, and to take back the certificates when prisoners are discharged or die. 18th June 1824, No. 294, Vol. I., ... 86

3. Form of certificate for prisoners referred to in Circular Order, 14th May 1824. 18th June 1824, No. 295, Vol. I., ... 87

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„ "Capital Sentences."
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„ "Depositions."
„ "Law Officers, examination of candidates for the office of."

CHAKERAN LANDS.

See "Appeals."

CHALAN OF STOLEN OR SUSPECTED PROPERTY.

See "Stolen Property," No. 2.

CHARGE OF OFFICE, DELIVERING OVER.

1. On delivering over charge of an office, the authority for doing so, and the nature of the power vested in the relieving officer, must be mentioned. L. P., 5th December, W P., 7th November 1834, and 23rd January 1835, No. 157, Vol. II., ... 174

2. Judicial officers delivering over charge of their offices, are required to furnish the relieving officer with lists of unanswered letters and periodical statements over-due. L. and W. P., 25th September 1835, No. 179, Vol. II., ... 186

See "Duties of officers in charge of office of session judge."

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See "Police Officers, criminal charges against."

CHARGES, BAILABLE.

See "Bailable Offences."

CHARGES, CRIMINAL.

The judge to be careful that the question addressed to a prisoner corresponds with the written charge; and where several prisoners are included in a case, the question to be addressed separately and distinctly to each by the judge himself. L. and W. P., 22nd February 1833, No. 135, Vol. II., ... 162

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CHEMICAL EXAMINER.

Magistrates not to call upon the chemical examiner to make affidavit before the magistrate of Calcutta, regarding any matter referred for examination. L. P., 27th October 1843, No. 146, Vol. III., ... 359

CHEMICAL QUESTIONS.

1. References regarding chemical questions and operations to be made direct to the professor of chemistry. L. and W. P., 24th June 1842, No. 110, Vol. III., ... 333
2. Report, or detail, of cases to be forwarded, whenever practicable, with poisonous substances submitted for chemical examination. L. P., 10th February, and W. P., 4th April, 1843, No. 129, Vol. III., ... 341

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CHOLERA MORBUS.

Remarks of the Civil Surgeon of Moorshedabad on the cure and prevention of Cholera Morbus. 29th December 1826, No. 320, Vol. I., 96

CHOWDHREES.

In supersession of Construction No. 816, interference by magistrates in the election, recognition, or removal of Chowdhrees, prohibited. L. and W. P, 6th May 1844, No. 163, Vol. III., ... 370

CHOWKEEDAREE TAX.

The levy of chowkeedaree tax to be confined to the stations prescribed by Regulation XXII. 1816. 22nd July 1831, No. 87, Vol. II., 140

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CHOWKEEDARS, DUTY OF.

1. The provisions of Regulation II. 1832, do not exempt Chowkeedars, who are bound to report all cases that come to their knowledge, from the duty of reporting the commission of burglaries and thefts; it only prohibits the police from arresting any person or making local enquiries, without written application from the party injured. L. and W. P., 21st December 1832, No. 130, Vol. II., ... 157
2. Regulation II. 1832, does not alter the law heretofore in force regarding any heinous crimes, except burglaries and thefts.—*Ibid.*

CHOWKEEDARS, NEGLECT OF DUTY BY.

Chowkeedars, &c., guilty of neglect of duty, not liable, under Regulation II. 1834, to 12 months' imprisonment in lieu of corporal punishment. L. and W. P, 14th July 1837, No. 238, Vol. II., ... 211

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CHRISTIANS, TRIAL OF.

Whenever a Christian is tried, his parentage and place of birth to be mentioned. L. P., 27th July 1832, No. 113, Vol. II., ... 148

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CLASSIFICATION OF MISCELLANEOUS OFFENCES.

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CLERKS (HEAD), EMPLOYMENT OF.

Rule for relief of civil and session judges, empowering them to employ at discretion, their head clerks in certain unimportant duties now done by the former. L. and W. P., 25th August 1841, No. 91, Vol. III., ... 273

CLOTHING TO CONVICTS.

Magistrates will furnish to all indigent prisoners, the quantity and description of clothing, as is now, or may hereafter be, furnished to convicts; and will specially, within the divisions of Benares and Bareilly, furnish annually an additional blanket beyond the articles now allowed to prisoners under their charge. 30th October 1818, No. 209, Vol. I., ... 69

See " Blankets to Convicts."

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See " Attachment."

COLLECTORS, WARRANTS OF.

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COMMISSIONERS.

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COMMISSIONERS OF CIRCUIT.

Commissioners of circuit, besides holding the sessions with regularity, to spend such portions of the temperate season of the year as may not be occupied with the jail delivery, in visiting the interior of the districts under their authority; and also to be prepared at all times to proceed to any part of them requiring their presence. 5th June 1829, No. 27, Vol. II., ... 108

See " Courts of Circuit."
" " Warrants."
" " Magistrates, tours of."
" " Superintendent of police."
" " Sessions of jail delivery."
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COMMISSION OF THE PEACE.

New commission of the peace issued by the Supreme Court comprising the names of all covenanted civil officers. L. P., 15th August 1845, No. 213, Vol. III., ... 397

COMMITMENTS.

1. A case, if ready for trial, should be proceeded upon by the court of circuit at the sessions, notwithstanding that the prisoners may not have been committed until after the arrival of that court. 30th November 1796, No. 9, Vol. I., ... 4

2. Judges of circuit will, on completing the jail delivery, admit and try any commitments which may be made during their stay at each zillah. 13th April 1808, No 49, Vol. I., ... 11

3. In all cases of acquittal, the commissioner of circuit to state whether the commitment has been made on sufficient grounds or otherwise. 8th May 1829, No. 24, Vol. II., ... 106

4. Commissioners and session judges to cause commitments not made conformably to Circular Order of 16th July 1830, to be amended before they proceed with the trial of the prisoners. L. and W. P., 23rd March 1832, No. 98, Vol. II., ... 144

5. Session judges to try cases as soon as possible after the commitments are made, and the cases laid before them by the magistrates. L. and W. P., 22nd June 1832, No. 108, Vol. II., ... 146

6. Magistrates immediately to report to the session judges when they commit a prisoner for trial; and to keep separate calendars of commitments for each month. L. and W. P., 22nd June 1832, No. 109, Vol. II., ... 147

7. Session judges are competent to cancel commitments, reporting each case for the orders of the Court. L. and W. P., 20th July 1832, No. 111, Vol. II., ... 148

8. Session judges are competent to direct a magistrate to commit for trial any person or persons (connected with a trial pending before them) whom the magistrate has not thought fit, or objects, to bring to trial. L. and W. P., 24th July 1835, No. 175, Vol. II., ... 185

9. Officers vested with the full powers of magistrates, under Act XV. of 1843, are competent to make commitments to the sessions. L. P., 26th July 1844, No. 173, Vol. III., ... 373

10. Rules to be observed by the magistrate in committing, and session judges in trying, persons whose commitment has been necessitated by their implication with others in offences which the magistrates are not competent to try. L. P., 30th October 1846, No. 234, Vol. III., ... 415

11. Instructions (in rescission of Circular Order, No. 15, dated 7th July 1848,) as to the course to be pursued in cases of defective commitments. L. P., 14th November 1851, No. 70, Vol. IV, ... 458

12. Reports to the Nizamut Adawlut of cancelment of commitments by session judges, dispensed with. W. P., 14th January 1852, No. 76, Vol. IV., ... 465

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„ "Calendar."
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„ "Trials, conduct of."
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„ "Trials at stations different to those of commitment."
„ "Evidence sufficient for commitment."
„ "Perjury."
„ "Session Judges, powers and duties of."
„ "Letters notifying commitments and trials."
„ "European British subjects."
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„ "Roobukary of commitment."
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See "Apprehension of Convicts."

COMMITMENTS BY THE GENERAL SUPERINTENDENT FOR THE SUPPRESSION OF THUGGEE,

The special session judge only to try commitments made by assistants to the general superintendent for the suppression of thuggee. L. P., 15th June 1838, No. 11, Vol. III., ... 224

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COMMITMENTS BY SESSION JUDGES IN THEIR CIVIL CAPACITY.

Report to be made to Government, whenever the session judges may be prevented from taking up a case, in consequence of their having made the commitment in their civil capacity, or from any other cause. L. P., 2nd November 1838, and W. P, 14th July 1837, No. 17, Vol. III., ... 224

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See "Prosecutors and Witnesses."

COMPLIMENTARY ADDRESSES.

See "Addresses, complimentary"

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See "Razeenama."

CONDEMNED CRIMINALS.

1. The practice of bestowing money, new clothes, &c., on condemned criminals before they are led to execution, interdicted. W. P., 4th September 1844, No. 177, Vol. III, ... 376

2. Condemned criminals, if not possessed of decent clothes, to be supplied with a suit and cap. L. P., 27th September 1844, No. 182, Vol. III., ... 378

3. The practice of allowing music, money, and other indulgences, to condemned criminals, interdicted.—*Ibid.*

See "Capital Sentences."

CONDITIONAL PARDON.

When a magistrate shall have occasion to tender a conditional pardon under Clause 3, Section 3, Regulation X. of 1824, he will, if it be accepted, immediately record a roobukary stating the fact and his reasons for making the tender; which roobukary will, on commitment of the case, be annexed by the sessions judge to the evidence taken by him. L. P., 18th November 1853, No. 113, Vol. IV.,... ... 507

CONDITIONAL PARDON TO DACOIT APPROVERS.

See "Approvers."

CONDITIONAL PARDON TO THUG APPROVERS.

See "Approvers."
„ "Thugs and Thuggee."

CONDUCT OF TRIALS.

See "Trials, conduct of."
„ "Proceedings."

CONFESSIONS.

1. Confessions made before magistrates will, in order to provide against the death of any before the trial, be attested by three or four respectable witnesses who can read and write. 4th July 1800, No. 23, Vol. 1., ... 6

2. Precaution to be observed by magistrates and Courts of Circuit, in taking the confession of prisoners and examining the attesting witnesses. 23rd August 1810, No. 73, Vol I., ... 24

3. Instructions relating to the taking of confessions in the Mofussil. 13th June 1811, No. 89, Vol I., ... 33

4. Zillah and city magistrates not to commit persons for trial before the Courts of Circuit, solely on the accusation of confessing prisoners. 20th November 1815, No. 156, Vol I., ... 54

5. In referring trials to the Nizamut Adawlut, the original confessions of prisoners, taken down in their peculiar dialects, to be accompanied by Persian translations. 26th November 1823, No. 281, Vol. I., 82

6. All original confessions and police reports should be annexed in the first instance to the original record of the trial, and the originals in

cases referred to, or called for by the Nizamut Adawlut, should be transferred to the copy of the record submitted; attested copies being retained on the original record. [*Vide* Circular Order, para. 6, 16th July 1830.] 3rd June 1831, No. 84, Vol. II., ... 139

7. The depositions and confessions of thugs to be taken down in the language best understood by them, and the general superintendent furnished with Oordoo translations of them. L. P., 7th September 1838, No. 16, Vol. III., ... 224

8. Attention of the criminal authorities directed to Section 6, Regulation VI. 1803, which enjoins magistrates to satisfy themselves, that all confessions made by prisoners are free and voluntary, and to other matters. W. P., 28th December 1850, No. 52, Vol. IV., ... 447

9. Whenever a committing magistrate may be prevented in any serious case from receiving a confession in person, the circumstances which may have prevented him should be placed on record by an official note or memo. to be filed with the proceedings of the case. L. P., 27th March 1851, No. 56, Vol. IV., ... 449

See "Confessions, Extorted."
„ "Darogahs."

CONFESSIONS, EXTORTED.

1. Orders of Government circulated respecting the exertions necessary to prevent confessions being extorted from accused persons, and circumspection to be used in the employment of goindas. 4th January 1811, No. 78, Vol. I., ... 29

2. Confessions extorted by the Police. L. and W. P., 18th January 1839, No. 18, Vol III., ... 225

CONFINEMENT OF PERSONS APPREHENDED.

See "Periodical Reports and Statements," Nos. 2 and 3.

CONFINEMENT OF PRISONERS IN THE NAZIR'S HOUSE.

The practice of confining prisoners in the house of the nazir, until they furnish security, prohibited. 19th February 1830, No. 47, Vol. II., 116

CONSTRUCTIONS.

1. Section 18, Regulation XVI. 1810, applies to meritorious service rendered in the discovery and apprehension of persons really "notorious as robbers." The provision in question is not applicable to persons coming under the vague description of vagrants. 17th January 1811, No. 80, Vol. I., ... 30

2. Regulation X. 1811, is applicable only to the importation of slaves for the purpose of being sold, given away, or otherwise disposed of, and is not applicable to the sale of slaves not imported into the British Territories. 5th October 1814, No. 141, Vol. I., ... 52

3. Section 7, Regulation XVII. 1817, was intended in cases of culpable homicide to limit the term of imprisonment, in commutation of deyut, to seven years, and not to authorise the infliction of stripes. This

construction is not applicable to affrays attended with homicide, which come under Section 2, Regulation II. 1823. 21st May 1824, No. 293, Vol. I., ... 85

4. Offences of forgery, or procuring the commission of it, come within the general description of heinous offences, not excepted by Clause 1, Section 13, Regulation XX. 1817, from the cognizance of darogahs of police or other police officers, who are bound to investigate such charges in conformity with the general rules prescribed for their guidance. But offences of abortion or procuring it, are not of a heinous description, unless death ensue; and where this is not the case, such charges partake of the nature of those specified in Clause 1, Section 12, Regulation XX. 1817, and should not be investigated by darogahs of police or other police officers without the special orders of the magistrate. 31st December 1824, No. 303, Vol. I., 93

5. Act XXX. 1841, being the only law under which contempt of court can be punished, and "prevarication" not being correctly classible under "obstructions of justice," Construction No. 1177 held to be rescinded. L. and W. P., 3rd February 1843, No. 128, Vol. III., ... 341

6. Construction No. 959 to be deemed to have currency in the Lower Provinces only. W. P., 2nd May 1846, No. 227, Vol. III., ... 406

7. Advocate General's opinion on the scope of Acts III. and IV., Vic. Chap. 37. W. P., 1st February 1851, No. 53, Vol. IV., ... 448

No. 529. *See* "Moochulkas."
No. 623. } „ "Assault."
No. 628. }
No. 648. „ "Forgery," No 3.
No. 759. „ "European British subjects."
No. 782. „ "Commitments."
No. 816. „ "Chowdhrees."
No. 819. „ "Reviews of criminal orders."
No. 857. „ "Stolen property, receipt of."
No. 1122. „ "Commitments."
No. 1125. „ "Suttees."
No. 1312. } „ "Lands, Distraint and seizure of."
No. 1333. }
No. 1344. „ "Suits under Act IV. 1848."

See "Police Officers, Criminal charges against."
„ "Criminal Prosecutions."
„ "Acts"
„ "Security for good conduct."
„ "Evidence sufficient for commitment."
„ "Chowkedars, duty of."
„ "Indigo Factories."
„ "Contracts for furnishing Hackeries and Cattle."
„ "Troops, carriage for."
„ "Trials referrible or called for."
„ "Trials, Conduct of."
„ "Disputes relating to the possession of land."
„ "Perjury."
„ "Corporal punishment."
„ "Thefts."
„ "Watchmen."
„ "Property moveable, possession of."

CONTEMPT OF COURT.

See "Constructions."

CONTINGENT BILLS.

See "Proceedings."
„ "Wells Uncovered."

CONTINGENT CHARGES.

Attention directed to Government orders, dated 31st March 1834, regarding contingent charges. W. P., 18th November 1844, No. 189, Vol. III., ... 383

CONTINGENT ESTABLISHMENT.

See "Establishment, contingent or temporary."

CONTRACTS FOR FURNISHING HACKERIES AND CATTLE.

The provisions of Section 5, Regulation VII. 1819, are applicable to the driver of a hackery and cattle, his own property, who engages therewith to perform work, and refuses to fulfil his engagement. L. and W. P., 20th May 1836. No. 197, Vol. II., ... 197

See "Indigo Factories."

CONVICTS.

1. All convicts, with the exception of such of them as may be incapable of labour from age, sickness, or other infirmity, will be employed on public works. 6th April 1796, No. 3, Vol. I., ... 2

2. Convicts not to be employed out of jail under the custody of a single guard. They are to be on all occasions, as far as possible, employed collectively under the guard of as many sepoys or burkundauzes, as may be spared from other duties. 14th November 1798, No 18, Vol. I., ... 5

3. In an additional column, following the names of prisoners in the list prescribed by Circular Order, No. 7, 3rd August 1796, magistrates to insert a full and accurate description of all convicts sent to the 24-Pergunnah jail for transportation. 10th April 1801, No. 25, Vol. I., ... 6

4. Instructions relative to the discharge of convicts confined under a sentence of banishment, or otherwise, in a zillah or city, different from that in which they were committed for trial. 6th March 1810, No. 66, Vol. I., ... 19

5. Prisoners, who may be incapable of, or exempted from, bodily labour, will not be sent to the Alipore jail. 2nd May 1811, No. 88, Vol. I., ... 32

6. Magistrates will furnish the magistrate of Twenty-four Pergunnahs with particular information relative to convicts sent to his jail, who may be of notorious or dangerous character. 1st August 1811, No. 95, Vol. I., ... 38

7. Precautions enjoined for the security of convicts while proceeding by water from one place or station to another. 24th February 1816, No. 161, Vol. I., ... 56

8. Precautions to be adopted to prevent ulceration of the legs of convicts from the friction of their fetters. L. and W. P., 9th March 1832, No. 95, Vol. II., ... 142

See "Transportation."
„ "Labour, Exemption from."
„ "Fetters."
„ "Clothing to Convicts."
„ "Release of decrepid prisoners."
„ "Blankets to convicts."
„ "Corporal punishment."
„ "Warrants, register of."
„ "Messes for convicts."
„ "Release of Blind or infirm Prisoners."
„ "Convicts sentenced to imprisonment for life."
„ "Convicts sentenced to transportation or banishment."

CONVICTS SENTENCED TO IMPRISONMENT FOR LIFE.

1. Convicts under sentence of imprisonment for life, to be kept in strict custody within the zillah jails, until they are removed to the Alipore jail. L. and W. P., 24th August 1832, No. 117, Vol. II., ... 149

2. Session judges to state their opinion, whether prisoners, whom they would propose to sentence to imprisonment for life, should be confined in the Alipore jail or transported. L. P., 27th March, and W. P., 24th April 1840, No. 41, Vol. III., ... 238

CONVICTS SENTENCED TO TRANSPORTATION OR BANISHMENT.

The persons of convicts under sentence of transportation or banishment, to be accurately described, and burkundauzes enjoined to compare the descriptive rolls with the convicts when relieving guard at the different stations. L. and W. P., 8th March 1839, No. 20, Vol. III., ... 228

See "Application for removal of convicts."

CONVICTED OFFENDER.

See "Trials (second)"

COOLIES.

See "Troops, carriage for."

COPIES.

1. Copies of futwas, roobukaries, &c., forwarded with the sessions statements, to be written on paper of English manufacture. L. P., 5th June 1840, No. 50, Vol. III., ... 240

2. Applications for copies of papers to contain mention of the number of documents of which transcripts are required. Date of the application to be inserted immediately after this mention. L. P., 7th April and W. P., 19th May 1842, No. 132, Vol. III., ... 342

3. Copies of letters or resolutions of the Sudder Court not to be given to applicants by the local authorities; but copies of sentences of that Court may. L. P., 19th April 1844, No. 160, Vol. III., ... 367
4. Civil and criminal authorities to refer applicants for copies of the orders of the Nizamut Adawlut to that court, except as to the sentences in criminal trials. W. P., 22nd July 1845, No. 207, Vol. III.,... 394
5. Circular Order, No. 207, 22nd July last, modified. W. P., 17th November 1845, No. 218, Vol. III., ... 400

See "Capital Sentences."
„ "Original papers."
„ "Record of trial."
„ "Roobukaries of commitment."
„ "Confessions."
„ "Futwas."
„ "Proceedings."
„ "Official correspondence."
„ "Documents, production of, in the Supreme Court."

CORPORAL PUNISHMENT.

1. In what cases corporal punishment can be inflicted on a convict under sentence of labour in irons. L. P., 15th September and W. P., 10th November 1827, No. 1, Vol. III., ... 218
2. Defining when a sentence of corporal punishment *may*, and when such a sentence *must*, be adjudged under Act III. 1844; what officers are competent to award it; and in whose presence the punishment must be inflicted. L. and W. P., 26th July 1844, No. 174, Vol. III., ... 373
3. Circular Order, No. 1, Vol. III. modified. Convicts sentenced to labour in irons are punishable by stripes for offences such as those enumerated in Section 5, Regulation XIV. 1816, as being opposed to the maintenance of jail discipline. L. and W. P., 13th November 1846, No. 235, Vol. III, ... 416
4 Circular Order, No. 1, 22nd January 1847, defining the age at which offenders are to be considered in the terms of Act III. 1844, "of such tender years as to require punishment rather in the way of school discipline than of ordinary criminal justice,"—rescinded. L. P. 13th September 1850, No. 48, Vol. IV., ... 444

See "Warrants on Execution of Sentences."

CORRESPONDENCE.

See "Official Correspondence."
„ "Letters."
„ "Jails."
„ "Advocate General."

CORRUPTION.

See "Criminal Prosecutions."

COURTS OF CIRCUIT.

See "Commitments."
„ "Calendar."

See "Theft."
„ "Records, destruction of."
„ "Appeals."
„ "Sessions of Jail Delivery."
„ "Futwas."
„ "Periodical Reports and Statements."
„ "Trials conduct of."
„ "Commissioners of Circuit."

COURTS MARTIAL, SENTENCES OF.

See "Sepoys."

COVENANTED OFFICERS.

See "Treasuries."

CRIME.

See "Suppression of Crime."
„ "Trials of offences committed out of the British Provinces."
„ "Date of crime."

CRIME, SUSPICION OF.

See "Police officers."

CRIMINAL APPEALS UNDER ACT XXXI. 1841.

See "Appeals."

CRIMINAL CASES (PETTY).

See "Notice to defendants in petty criminal cases."

CRIMINAL CHARGES.

See "Darogahs."
„ "Trials, conduct of."
„ "Charges, Criminal."

CRIMINAL COURTS.

During the dusserah and mohurrum vacations, the Court of the judge must never be closed for the despatch of criminal business, except on those days only when a total cessation from all business is necessary and usual. W. P., 2nd March, and L. P., 23rd March 1838, No. 8, Vol. III., ... 223

See "European British subjects."

CRIMINAL DUTIES.

Magistrates entrusting criminal duties to the joint magistrate will not be exonerated from the responsibility which attaches to their offices. W. P., 25th January, and L. P. 6th May, 1842, No. 103, Vol. III., ... 329

CRIMINAL INVESTIGATIONS.

See "Law officers."
„ "Criminal trials, Rules for holding."
„ "Proceedings."

CRIMINAL ORDERS.

See "Reviews of criminal orders."

CRIMINAL PROSECUTIONS.

1. Provisions of Regulation XIII. 1793, construed not to preclude a criminal prosecution on charges of corruption or extortion against native officers of the courts. 18th March 1810, No. 67, Vol. I., ... 21
2. When a magistrate may consider the information and evidence before him in such cases to be sufficient for bringing the parties accused to trial before a court of circuit, the prosecution should be public and conducted by the Government vakeel.—*Ibid.*

CRIMINAL SENTENCES.

See "Warrants, Register of."

CRIMINAL TRIALS.

1. Magistrates may refer to principal sudder ameens and sudder ameens, for investigation and report, criminal cases not finally cognizable by them; but to law officers, only such cases as are finally cognizable by them for trial. L. and W. P., 15th February 1833, No 133, Vol. II., ... 160
2. Translations of proceedings generally dispensed with in criminal trials. L. P., 29th October 1841, No. 94, Vol. III., ... 275

See "Futwas."
„ "Razeenama."
„ "Law officers"
„ "Thugs and Thuggee."
„ "Appeals."
„ "Pleaders (Government.)"
„ "Trials, conduct of."
„ "Decisions and reports on criminal trials,"

CRIMINAL TRIALS, RULES FOR HOLDING.

1. Rules for preserving uniformity in the proceedings of commissioners, magistrates, and joint magistrates in points of form and practice. 16th July 1830, No. 54, Vol. II., ... 119
2. Requesting the particular attention of commissioners and session judges to the rules laid down in paragraphs 6 and 8 of the Circular Order of 16th July 1830, for placing prisoners on their trial and pointing out inconveniences resulting from a non-observance of those rules. W. P., 19th November 1832, No. 129, Vol. II., ... 157

CULPABLE HOMICIDE.

See "Constructions."

CUSTODY OF INSANE PERSONS.

See "Engagement for safe custody of insane persons."

CUTCHERRIES.

See "Arms."

D.

DACOIT APPROVERS.

See "Approvers."

DACOITY.

1. Attention of session judges called to Act XXIV. of 1843, regarding form of trial of dacoity cases. L. P., 5th July, and W. P., 22nd August, 1844, No. 171, Vol III., ... 373

2. When a prisoner charged with dacoity belongs, or has belonged, to a gang of dacoits, such as is referred to in Act XXIV. 1843, a count to that effect to be entered in the indictment. L. and W. P., 14th May 1850, No. 38, Vol. IV., ... 440

See "Approvers."

DAROGAHS.

1. A person acting for a suspended Darogah to receive the full salary of the office while he is so employed. On the acquittal of the Darogah, a report to be submitted for the consideration and orders of Government as to whether he is entitled to receive the whole or part of the salary of his office for the time of his suspension. 10th May 1809, No. 51, Vol. I., ... 12

2. Police Darogahs, violating the provisions of Clause 3, Section 5, Regulation XIV. 1810, by holding out encouragement to persons apprehended on criminal charges, to confess the same, will be immediately dismissed from office. 13th November 1816, No. 178, Vol. I., ... 59

3. Compensation to be made to a Police Darogah while officiating for a suspended Darogah of an adjoining Thannah. 8th April 1818, No. 198, Vol. I., ... 65

4. Implicit obedience from Police Darogahs in the Western Provinces, required to Clause 1, Section 19, Regulation XX. 1817, which directs that in the event of a prisoner making a free and voluntary confession, it shall be immediately written down, if practicable, in the language best understood by him. 26th January 1821, No. 242, Vol. I., 75

See "Police, Entertainment of."
„ "Records."

DAROGAHS, CASES TO BE INVESTIGATED BY.

See "Constructions."

DATE OF APPREHENSION AND COMMITMENT.

See " Trials referrible or called for."

DATE OF CRIME.

Date of perpetration of offence to be noted in the margin of letters of reference. L. and W. P., 22nd February 1833, No. 135, Vol. II., ... 162

DEAF AND DUMB PRISONERS.

Mode of procedure in the case of a prisoner being both deaf and dumb. 3rd August 1814, No. 137, Vol. I., ... 49

DEATH, SENTENCE OF.

See " Condemned criminals."

DEATHS OF PRISONERS.

See " Inquests."
„ " Surgeons."
„ " Prisoners, death of."

DEATH WARRANTS.

Death warrants to be forwarded to the Nizamut Adawlut, when fully executed. L. and W. P., 22nd February 1833, No. 134, Vol. II., 161

DECEASED OFFICERS OR SOLDIERS.

See " Estates of deceased officers or soldiers."

DECISIONS AND REPORTS ON CRIMINAL TRIALS.

The sessions judge will, in his English decision and report on criminal trials, confine himself to a clear and concise statement of the case, concluding with the reasons on which his judgment is formed, and will avoid all lengthy recapitulations of evidence. L. P., 31st August 1853, No. 111, Vol. IV., ... 502

DECISIONS OF SUBORDINATE COURTS.

See " Records."

DECLARATION UNDER ACT V. 1840.

1. Translations in Bengalee and Urdu of the form of declaration prescribed by Act V. of 1840, with instructions for bringing the provisions of that law into operation. L. P., 3rd April, and W. P., 15th May 1840, No. 44, Vol. III., ... 239

2. Police officers required to make use of the form of declaration prescribed by Act V. 1840. L. P., 26th August, and W. P., 4th November, 1842, No. 117, Vol III., ... 336

DECREPID PRISONERS.

See "Release of decrepid prisoners."

DEFENCE, WITNESSES FOR THE.

See "Witnesses."

DEGCHIES.

See "Messes for convicts."

DEPOSITIONS.

1. Magistrates will certify on the record of all examinations and depositions, before whom they were taken, and will include such certificate in the copy of trials referred to the Nizamut Adawlut. 28th December 1796, No. 11. Vol. I., ... 4

2. A magistrate or his assistant will, in all serious cases, himself take the depositions of prosecutors and witnesses, without any preliminary or partial examination before a native officer. 12th December 1809, No. 58, Vol. I., ... 14

3. In cases wherein a native officer may be employed in taking depositions of prosecutors and witnesses, he should not be permitted to take them in any part of the building other than where the magistrate or his assistant may be seated, or in the absence of such officer.—*Ibid.*

4. Session judges to report instances of examinations taken by the native officers in the absence of the magistrate or his assistant. L. and W. P., 11th May 1830, No. 103, Vol. II., ... 145

See "Confessions."
„ "Sudder Ameens."
„ "Witnesses."
„ "Futwas."

DESCRIPTION OF PRISONERS.

See "Certificates."
„ "Convicts."

DESCRIPTIVE ROLLS.

See "Convicts sentenced to transportation or banishment."
„ "Insane Persons."

DESIGNATION OF OFFENCES.

See "Law Officers."

DESTRUCTION OF RECORDS.

See "Records, destruction of."
„ "Records."

DETENTION OF WITNESSES.

See "Witnesses."

DEWANNY PRISONERS.

1. The warrant of a collector is a sufficient authority to a civil jailor to receive and discharge prisoners confined under his orders. L. and W. P., 4th January 1833, No. 131, Vol. II., ... 158
2. Explanation to be given in the half-yearly statements of civil prisoners of the cause of detention of any who have been one year in confinement. L. and W. P., 13th September 1833, No. 139, Vol. II., 164
3. Custody of civil prisoners at the stations of joint magistrates, residing at a place other than the sudder station of the zillah court. L. and W. P., 21st March 1834, No. 143, Vol. II., ... 167

See "Periodical Reports and Statements," No. 7.

DEYUT.

See "Constructions."

DIARY OF ATTENDANCE OF WITNESSES.

See "Witnesses"

DIET-MONEY.

1. Before paying diet-money to indigent prosecutors and witnesses, magistrates will ascertain that they are in attendance at the court of circuit; and the judge of that court will countersign the detailed account of diet-money. 6th September 1810, No. 75, Vol. I., ... 27
2. The payment of the allowance authorised to be made to prosecutors and witnesses in attendance on the courts of circuit, to be restricted to persons really indigent. 16th July 1811, No. 91, Vol. I., ... 34
3. As a complete check against overcharges by their native officers in the payment of diet-money to indigent prosecutors and witnesses, commissioners of circuit and session judges to ascertain when they commence a trial, what witnesses mentioned in the calendar are in attendance, and to mark the names of the absentees; and on termination of the trial to demand from the magistrate's nazir a statement of the account of diet-money paid in the cases, to have the persons stated to have received it brought before them, to ascertain from them how much they have received, and to direct whatever may be due to them to be paid in their presence. L. and W. P., 16th November 1832, No. 125, Vol II., ... 153

See "Indigent witnesses, subistence to."
„ "Muzkooree Peons."

DISCIPLINE, JAIL.

See "Corporal punishment."

DISCREPANCY.

See "Errors."

DISMISSED SERVANTS OF GOVERNMENT.

1. Government servants dismissed from one department, not to be considered eligible for employment in any other department. L. P., 22nd November 1850, No. 46, Vol. IV., ... 443

2. Rule laid down in the Hon'ble the Court of Directors' despatch No. 27, dated the 10th July 1850, was not intended to apply to cases of inaptitude for some particular branch of occupation to which a native servant may have been originally appointed and from which it may have been necessary on that account only, to displace him. L. P., 17th December 1851, No. 75, Vol. IV., ... 464

See "Magistrates' Orders."
„ "Ministerial Officers."

DISPOSAL OF BODIES OF EXECUTED CRIMINALS.

See "Gibbets."

DISPOSSESSION.

See "Suits under Act IV. 1840."
„ "Disputes relating to possession of land."
„ "Property (moveable,) possession of."

DISPUTES RELATING TO POSSESSION OF LAND.

The provisions of Act IV. 1840, empower Magistrates to inquire into disputes relating to the possession of lands, of which before the passing of that enactment, they were not competent to take cognizance. L. and W. P., 29th December 1842, No. 124, Vol. III., ... 339

DISREGARD OF THE FORMS OF LAW.

Session judges to bring to the notice of the Court, for ultimate report to Government in serious instances cases of palpable disregard of the forms of law in the proceedings of a Magistrate, detected on appeal or otherwise. L. P., 16th May 1851, No. 59, Vol. IV., ... 452

DOORS.

See "Glazed doors and windows."

DOCUMENTARY EVIDENCE.

See "Confessions."

DISTRAINT AND SEIZURE OF LAND.

See "Land, distraint and seizure of."

DOCUMENTS, PREPARATION AND EXECUTION OF, CONNECTED WITH THE APPOINTMENT OF PUBLIC SERVANTS.

See "Security Bonds."

DOCUMENTS, PRODUCTION OF, IN THE SUPREME COURT.

Rules to be observed on applications being made to the Court for copies of proceedings or documents in order to their being produced in Her Majesty's Supreme Court. L. P., 6th November 1850, No. 45, Vol. IV., ... 442

DROP, SKETCH OF A.

Sketch of a drop for the execution of malefactors, and prohibition of the practice of hamstringing the criminals. 23rd April 1830, No. 53, Vol. II., ... 119

DRUGS.

See "Administration of poisonous or intoxicating drugs."

DUSSERAH VACATION.

See "Criminal Courts."

DUTIES OF OFFICERS IN CHARGE OF OFFICE OF CIVIL AND SESSIONS JUDGE.

1. Rules for defining the duties to be performed by assistants and other officers in charge of the office of civil and sessions judge. L. and W. P., 6th February 1835, No. 159, Vol. II, ... 174

2. The judge on delivering over charge will certify that he has called the attention of the relieving officer to these rules.—*Ibid.*

3. Mode of proceeding to be followed by an officer in charge of the current duties of a sessions judge's office, on receipt of an application for staying execution of any order of a magistrate against which an appeal has been lodged. L. and W. P., 28th January 1840, No. 38, Vol. III., 237

See "Execution of magistrate's order."

E.

EMBEZZLEMENT.

Attention directed to the careful and proper framing of charges of embezzlement, under Section 13, Act XIII. of 1850. L. P., 12th December 1851, and W. P., 23rd January 1852, No. 73, Vol. IV., ... 463

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„ "Confessions."

EMOLUMENT OF SUBORDINATE MEDICAL OFFICERS.

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See "Promulgation of an Enactment."

ENDORSEMENTS ON WARRANTS.

See "Warrants, register of."
„ "Warrants on execution of sentences."

ENGAGEMENT FOR SAFE CUSTODY OF INSANE PERSONS.

Form of engagement in Urdu and Bengalee to be taken from parties who undertake the safe custody of insane persons. L. P., 14th August 1840, No. 61, Vol III., ... 245

ERA TO BE USED BY MAGISTRATES AND DAROGAHS.

See "Examinations."
„ "Proceedings."

ERRORS.

1. Discrepancy in the English and Persian versions of Clause 9, Section 19, Regulation XX. 1827, relative to the use of handcuffs, rectified. 5th June 1829, No. 28, Vol. II., ... 108
2. Discrepancy between the English and Persian versions of Clause 9, Section 19, Regulation XX. 1827, corrected. Magistrates to communicate this to the police officers, and to call their attention to the succeeding Clause, which declares that they shall be held strictly responsible for any severity further than what may be essentially necessary for securing the persons of prisoners. 9th October 1829, No. 41, Vol. II., ... 112
3. Error in the Bengalee translation of Regulation XX. 1817. L. P., 6th June 1845, No. 204, Vol. III., ... 392
2. Error in the Persian and Bengalee versions of Regulation II. 1807. L. P., 9th January 1846, No. 223, Vol. III., ... 403
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1. Courts of Circuit will, with the proceedings and trials of murder referred to the Nizamut Adawlut, transmit a translation of the report of the inquest when held under Section 9, Regulation IV. 1797, and when not held will notice the omission, and if necessary, will call upon the magistrate for explanation thereof. 19th April 1798, No. 17, Vol. I., 5

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3. Magistrates to hold inquiry in all cases of prisoners committing suicide, and to report the result to the courts of circuit. 7th December 1815, No. 157, Vol. I., ... 54

4. Circular Order, No. 26, 29th June 1801, relating to inquests over the bodies of prisoners reported to have died in jail, should be regularly attended to, and whenever the native doctor or other officers associated with him may have the slightest doubt as to the actual death of a prisoner, the body will not be removed until it has been examined by the surgeon himself. 2nd July 1818, No. 204, Vol. I., ... 68

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1. Law officers of the courts of circuit to be instructed to avoid the use of the term ghurutguree, when it is their intention to convict a prisoner of robbery, and in all cases to be careful to use the proper term appropriated by the Mahomedan law or by usage, to designate the offence of which a prisoner is convicted. 15th November 1811, No 104, Vol. I., ... 40

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3. The same specification to be inserted in the abstract statements of the judges of circuit. 9th July 1812, No. 115, Vol. I., ... 43

4. Magistrates to refer such cases only to their law officers as are of a trivial nature, and admit of their being finally disposed of by those officers; and should any such referred case on investigation, turn out to be of a serious nature, the law officers to return it to the magistrate, unaccompanied by any opinion as to the merits of the case. The practice of referring every description of criminal cases to such officers, is illegal and not warranted by the rules contained in Clauses 2 and 3, Section 3, Regulation III. 1821. 24th July 1820, No. 30, Vol. II., ... 109

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5. Criminal authorities to refrain from indenting for certain lithographed forms, which have been struck off from the list by the orders of the Sudder Court. W. P, 31st August 1852, No. 90, Vol IV. ... 480

LITHOGRAPHIC PRESS.

The Government lithographic press is exclusively a Government establishment, organized for the sole purpose of aiding the service in the discharge of official details, and no charge is made for forms engrossed there. W. P., 24th August 1832, No. 118, Vol. II., ... 150

LOCAL INQUIRIES.

See "Chowkeedars, duty of."

LOCUM TENENS.

See "Charge of office, delivering over."
„ "Duties of officers in charge of office of sessions judge."

LOOT-O-TARAJ.

See "Plunder."

M.

MAGISTERIAL AUTHORITIES.

See "Suits under Act IV. 1840."
„ "Appellate jurisdiction."

MAGISTRATES.

See "Session judges, powers and duties of.
„ "Proceedings."
„ "Appeals"
„ "Government Advocate."

MAGISTRATES' CIRCULARS.

Magistrates to be cautious in issuing Circulars, and to furnish the superintendents of police with copies of them; and those authorities to recommend to the provincial courts the reversal of any they may deem objectionable, and communicate any difference of opinion between them and the provincial courts, to the Nizamut Adawlut, 16th August 1822, No. 264, Vol I., ... 78

See "Publications"

MAGISTRATES' ORDERS.

See "Appeals."

MAGISTRATES, POWERS AND DUTIES OF.

1. Magistrates to limit themselves to duties of real importance, and leave details, subject to a vigilant and systematic control on their own part, in the hands of their subordinate officers. L. and W. P., 25th September 1834, No. 151, Vol. II., ... 172

2. Magistrates to make a judicious distribution of their work among their subordinate officers, European and natives; the value of their services being more dependant on the skill and judgment with which they direct and control the acts of all subordinate officers, than upon the work they can themselves perform. L. and W. P., 12th May 1837, No. 229, Vol. II., ... 205

3. The time of an officer exercising civil or criminal jurisdiction, ought not to be occupied in details, which can be well performed by the ministerial officers.—*Ibid.*

4. Magistrates incompetent to compel a wife to return to her husband. L. P., 8th March 1839, No. 19, Vol. III., ... 227

See "European British Subjects"
„ "Hauts."
„ "Military, Assistance of."
„ "Periodical Reports and Statements."
„ "Depositions."
„ "Oath."
„ "Fetters."
„ "Police Duties."
„ "Explanations of magisterial authorities."
„ "Guardianship of children."
„ "Tents, purchase of, for magistrates."
„ "Proceedings."
„ "Records of Trial."
„ "Prosecutors and Witnesses."
„ "Disputes relating to possession of land."
„ "Privity."
„ "Session Judges, powers and duties of."
„ "Criminal Duties."

MAGISTRATES' RECORDS.

See "Records destruction of."
„ "Records."

MAGISTRATES, TOURS OF.

1. Commissioners of Circuit competent to permit the officer, subordinate to them, to proceed into the interior of their districts. W. P., 12th March 1832, No. 97, Vol. II., ... 143

2. Magistrates to report to the superintendant of police, whenever they have occasion to proceed into the Mofussil. L. P., 1st June 1838, No. 10, Vol. III., ... 223

MAHOMEDAN LAW.

See "Law Officers."
„ "Receipt of Stolen Property."
„ "Jury, trials by"
„ "Trials referrible or called for."

MANAGERS OF ESTATES.

See "Police Duties."

MAPS.

See "Boundary disputes."
„ "Confessions."

MEDICAL BOARD.

See "Subordinate Medical officers."

MEDICAL OFFICERS.

See "Subordinate Medical Officers."
„ "Capital sentences."
„ "Native Doctors."

MERITORIOUS SERVICES.

See "Rewards."

MESSES FOR CONVICTS.

Iron degchies for messes of convicts, to be provided by the magistrates. L. P., 17th December 1841, No. 97, Vol. III., ... 276

MILITARY, ASSISTANCE OF.

Magistrates to submit reports on all occasions when it may be necessary to call for the assistance of the military to preserve the peace of their districts. 17th December 1830, No. 68, Vol II., ... 137

MILITARY CAMPS.

See "Troops."

MINISTERIAL OFFICERS.

1. Returns of the principal ministerial officers attached to the courts of the civil and session judges, to be forwarded to the Nizamut Adawlut in the form circulated, and their removal or resignation to be reported within ten days after the same may have taken place. L. P., 20th November 1840, No. 73, Vol. III, ... 250
2. Form for reporting the dismissal of ministerial officers of the judge's court, L. P., 8th July, and W. P., 30th September, 1842, No. 115, Vol. III., ... 334

3. Registers of ministerial officers of the judge's courts, dismissed for misconduct. L. P., 30th December 1842, W. P., 3rd March 1843, No. 125, Vol III., ... 340

4 Ministerial officers not to be employed on lower salaries than those fixed by the Government. L. P., 19th January 1844, No. 154, Vol. III, ... 362

See " Schedule of landed property."
„ " Magistrates, powers and duties of."
„ " Security of native officers."
„ " Travelling allowances."

MISCELLANEOUS OFFENCES.

See " Periodical Reports and Statements."

MISCELLANEOUS REFERENCES.

See " Letters."

MISDEMEANORS.

In passing sentence upon parties for misdemeanors, or for offences subjecting them to punishment under Section 19, Regulation IX. of 1807, criminal authorities invariably to record whether the imprisonment is to be with or without labor. L. P., 29th October 1852, No. 99, Vol. IV., ... 481

See "Fetters."
„ " Evidence sufficient for commitment."

MOFUSSIL.

See " Confessions."
„ " Magistrates, Tours of."

MOHURRUM VACATION.

See " Criminal Courts."

MONEY (PUBLIC), APPROPRIATION OF.

Money drawn for a specific object not to be appropriated when the object has been otherwise provided for. L. P., 26th June 1851, No. 62, Vol. IV., ... 454

MOOCHULKAS.

1. Construction No. 529, which declares specially empowered assistants competent to require moochulkas and security under Regulation XV. 1825, rescinded. L. and W. P., 2nd August 1845, No. 211, Vol. III., ... 397

2. Instructions regarding the entry of persons released on moochulka, taken under Act V. of 1848. W. P., 10th May, and L. P., 26th May 1852, No. 83, Vol. IV., ... 474

See "Prosecutors and witnesses."

MOOKHTARNAMAS.

See "Powers of Attorney."

MOONSIFFS' RECORDS.

Practice followed by moonsiffs when about to quit their stations on leave, of leaving their records at the thannahs, prohibited, except at the vacations. L. P, 9th January 1846, No. 224, Vol. III., ... 404

See "Records."

MOVEABLE PROPERTY.

See "Property (moveable), possession of."

MUNDULS.

See "Penal Engagements."

MURDERS.

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„ "Ornaments, gold or silver."
„ "Trials conduct of."
„ "Surgeons, evidence of."

MUTINY ACT.

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MUZKOOREE PEONS.

Instructions relative to the employment of muzkooree peons. 3rd October 1827, No. 329, Vol. I., ... 99

N.

NAMES OF PRISONERS, ORTHOGRAPHY OF.

The names of prisoners to be spelt uniformly, and the names of their fathers to be mentioned when two or more of the same name are included in the same trial. L. and W. P., 22nd February 1833, No. 135, Vol. II, ... 162

NAMES OF PRISONERS TO BE ENTERED IN THE LETTER OF REFERENCE.

See "Trials referrible or called for."

NATIVE DOCTORS.

Form of report to be furnished daily by the native doctor to the Magistrate. 30th June 1814, No. 134, Vol. I., ... 47

See "Inquests."

NATIVE GENTLEMEN OF RANK.

Native gentlemen of rank to be addressed by the authorities in a suitable manner. L. P., 19th November 1841, No. 95, Vol. III., ... 275

NATIVE JUDGES.

See "Law officers."
„ "Sudder Ameens."
„ "Uncovenanted judges."
„ "Appellate Jurisdiction."

NATIVE NAMES, ORTHOGRAPHY OF.

In writing native names, the orthography of the original to be closely adhered to. L. and W. P., 18th May 1832, No. 104, Vol. II., ... 145

NATIVE OFFICERS.

Native servants of Government, drawing small allowances, are not to be heavily fined, but to be dismissed for neglect of duty. L. P., 7th, and W. P. 28th August 1840, No. 60, Vol. III., ... 245

See "Darogahs."
„ "Criminal Prosecutions."
„ "Schedule of landed property."
„ "Public service."
„ "Examinations."
„ "Ministerial officers."
„ "Nazirs of the foujdaree courts."
„ "Security of native officers"
„ "Travelling allowances.
„ "Appellate Jurisdiction."
„ "Security Bond."
„ "Dismissed servants of Government."

NATIVE OFFICERS, CHARGES AGAINST.

Extract of a letter from the Government N. W. P., explanatory of the notification of the 7th March preceding, regarding charges against native officers. W. P., 31st May 1851, No. 60, Vol. IV., ... 453

NATIVE OFFICERS, RESTORATION TO OFFICE OF.

Any expenses occasioned by neglect of a superior court's order, directing the restoration of a native officer to office, shall be made good by the person guilty of such inattention. 10th May 1822, No. 254, Vol. I., ... 77

NATIVES.

It being expedient that all parties concerned in the commission of a common offence, might be tried before the same tribunal; magistrates will, without instructions from the Nizamut Adawlut, refrain from trying or committing for trial, natives concerned with British Subjects in the commission of offences, for which the latter have been arraigned for trial before the Supreme Court. 4th January 1811, No. 79, Vol. I., ... 29

See "Public Service."

NATIVE SOLDIERS.

See "Sepoys."

NAZIRS.

See "Confinement of prisoners in the nazir's house."

NAZIRS OF FOUJDAREE COURTS.

Rule of the Circular Order of the 25th February 1820, authorising the payment to the nazirs of the civil courts of a commission of one anna per rupee on the proceeds of unclaimed property of intestates, which might be sold by them, extended to the nazirs of the foujdaree courts. L. P., 12th August, and W. P., 26th September, 1842, No. 116, Vol. III., ... 335

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NEGLECT OF ORDERS.

See "Native Officers, Restoration to office of."

NEGLECT OF POLICE DUTIES.

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NIZAMUT ADAWLUT.

See "Proceedings."
„ "Periodical Reports and Statements."
„ "Futwas."
„ "Confessions."
„ "Trials referrible or called for."
„ "Copies."

NOTICE TO DEFENDANTS IN PETTY CRIMINAL CASES.

Notice may be served on the defendants in a petty criminal case at the time of its institution, to give them opportunity of showing cause why they should not be summoned. This notice does not supersede the

process prescribed by law for procuring attendance of accused persons. L. P., 14th June 1853, No. 107, Vol. IV., ... 499

NOTICE TO GOVERNMENT PLEADER.

See "Government pleader.

NOTIFICATION TO ARBITRATORS.

See "Form of notification to arbitrators."

NOTORIOUS OFFENDERS.

See "Suppression of Crime."

NUISANCE ACT.

Care to be taken that Act XXI. 1841, for the prevention of local nuisances not within the local limits of the Supreme Court, does not operate oppressively. L. P., 5th May 1843, No. 131, Vol. III., ... 342

See "Appeals."

O.

OATH.

1. Examinations of all persons, however young, provided they have a competent discretion and a sufficient sense of the nature and obligation of an oath, will be taken on oath or solemn declaration. 23rd January 1810, No. 62, Vol. I., ... 17

2. Magistrates to promulgate such parts of Clause 1, Section 6, Regulation IX. 1807, for general information, as empower them to dispense with an oath and the attendance of the complainant, in particular cases. 21st January 1811, No. 82, Vol. I., ... 32

3 Instructions in addition to those communicated on 23rd January 1810, on the subject of taking evidence without oath 1st February 1828, No. 1, Vol. II., ... 100

4. All covenanted officers exercising magisterial powers, and deputy magistrates, to take and subscribe the oath appointed to be taken by justices of peace. L. P., 27th December 1850, No. 51, Vol. IV., ... 446

See "Surgeons, evidence of."
„ "Affirmation."

OBSTRUCTION TO JUSTICE.

See "Constructions."

OFFENCES.

See "Bailable offences."
„ "Trials of offences committed out of the British Provinces,'

OFFENDERS, APPREHENSION OF.

See " Rewards."

OFFICES PUBLIC.

See " Funds."

OFFICERS ATTACHED TO JAILS.

See " Constructions."

OFFICERS INVESTED WITH FULL POWERS OF MAGISTRATE.

See " Commitments."

OFFICIAL BUSINESS.

See " Criminal duties."

OFFICIAL BUSINESS, PLACE OF TRANSACTING.

The practice of transacting public business in private residences interdicted. 24th April 1829, No. 21, Vol. II., ... 105

OFFICIAL COMMUNICATIONS.

See " Addresses of native judges."

OFFICIAL CORRESPONDENCE.

1. Magisterial authorities to furnish circuit judges with all official correspondence they may require for their information 18th July 1828, No. 5, Vol. II., ... 101
2. Correspondence with authorities of districts where Urdu is current, to be in that language. L. P., 24th June 1842, No. 112, Vol. III., 334
3. Subjects on which the local authorities are to correspond with the Government direct. L. P., 27th April 1843, No. 134, Vol III, ... 343
4. Instructions for rendering official communications intelligible in themselves without reference to other documents. L. P., 17th November, and W. P., 30th December, 1843, No. 150, Vol. III, ... 360
5. Correspondence on matters of form or of minor importance not to be accompanied by originals or copies of the successive references made by subordinate officers. L. P., 20th October 1848, No. 17, Vol. IV., 426

See " Jails."
„ " Original Papers."

OFFICIATING OFFICERS.

See " Duties of officers in charge of office of civil and session judge."
„ " Darogahs "
„ " Charge of office, delivering over."

OPINION OF THE ADVOCATE GENERAL.

See "European British Subjects."
„ "Acts of Parliament relating to India."
„ "Constructions."
„ "British Officers and Soldiers."

ORDERS, NEGLECT OF.

See "Native officers, Restoration to office of."

ORDERS OF THE NIZAMUT ADAWLUT.

See "Copies."

ORIGINAL PAPERS.

1. In references to Sudder Dewanny and Nizamut Adawlut, copies should be transmitted instead of original papers. L. P., 16th November 1832, No. 126, Vol. II., ... 155

See "Official correspondence."

ORIGINAL RECORD OF COMMITMENT AND TRIAL.

See "Appeals."
„ "Confessions."

ORNAMENTS, GOLD OR SILVER.

Proclamation, with translations thereof in the native languages, relative to the murder of children for the purpose of obtaining their gold or silver ornaments, to be read or published at all the public cutcherries. Magistrates on every such case officially coming before them, will impress on the minds of parents and others present in court, the danger to which children are exposed when allowed to go abroad unprotected with jewels. 4th February 1818, No. 195, Vol. I., ... 63

ORTHOGRAPHY OF NAMES.

See "Native names, orthography of."
„ "Names of Prisoners, orthography of."

OVERCHARGES BY NATIVE OFFICERS IN PAYMENT OF DIET-MONEY.

See "Diet-money."

P.

PAPER OF ENGLISH MANUFACTURE.

See "Copies"

PARDON, CONDITIONAL.

See "Conditional pardon."

PARDONS TO APPROVERS.

See "Thugs and Thuggee."
„ "Approvers."

PARENTAGE.

See "Christians, trial of."

PARLIAMENTARY ACTS.

See "Acts of Parliament relating to India."

PENAL ENACTMENTS.

See "Sentences."
„ "Insane Persons."

PENAL ENGAGEMENTS.

Magistrates will discontinue the practice of taking penal engagements in the following description of cases—namely, 1st—those from zemindars; 2nd—those from munduls; and 3rd—those accompanied with security, from ryuts. In cases affecting whole classes of the people, the proper course is to prescribe the duty to be performed by the regulation with the adequate penalties for neglect of its provisions. 17th January 1811, No 80, Vol. I., ... 30

See "Moochulkas."

PENSION.

See "Jailors."

PEONS.

See "Tullubana of peons."

PERIODICAL REPORTS AND STATEMENTS.

1. Instead of the monthly English reports prescribed by Regulation IX. 1793, magistrates need only send, if more convenient, a detailed Persian report, with an English abstract. 8th June 1796, No. 6, Vol. I., 2

2. Magistrates will not omit to insert in their monthly reports of persons apprehended, required by Section 28, Regulation IX. 1793, and corresponding enactments, persons apprehended in former months but detained in confinement for examination. 16th October 1804, No. 37, Vol. I., ... 9

3. Magistrates will not include in their monthly report of persons apprehended, required by Section 28, Regulation IX. 1793, and corresponding enactments, persons apprehended in former months but held to bail.—*Ibid.*

4. Judges of circuit will, in their reports on the conclusion of the half-yearly Jail Deliveries, report as to the situation of prisoners confined under the direct orders of Government. 2nd April 1808, No. 48, Vol. I., ... 11

5. Periodical reports furnished by magistrates to the Nizamut Adawlut, to be transmitted through the courts of circuit. 20th July 1814, No. 136, Vol. I., ... 48

6. Magistrates to give the assistance of the writers on their establishments to surgeons to enable them to prepare their periodical reports on the health of the prisoners. 9th August 1814, No. 138, Vol. I., 50

7. Courts of circuit to state in the abstract statements of sentences passed without reference, the circumstances which induced the magistrates to commit cases of theft, burglary, or receipt of stolen property, instead of disposing of such cases themselves; and to instruct the magistrates to record such information in their roobukarees of commitment. 1st September 1820, No. 239, Vol. I., ... 73

8. In order to obviate the difficulty felt in reconciling the statements of crimes furnished by magistrates, with those submitted by courts of circuit to the Nizamut Adawlut, magisterial authorities to adopt the form circulated in the preparation of those statements, and courts of circuit to transmit the same with their circuit reports. 24th September 1824, No. 299, Vol I., ... 88

9. Hajut-tajvees and dewanny prisoners, to be separately entered in the monthly statements of deaths among the prisoners. 13th May 1831, No. 82, Vol. II., ... 139

10. When references to former trials in the remarks on jail delivery statements are made, such portions of the remarks on those trials, as may be necessary to a proper understanding of the case, to be inserted in them. L. and W. P., 2nd November 1832, No. 124, Vol. II., ... 153

11. Commissioners and session judges to communicate to the magistrates their remarks on their statements of acquitted prisoners, when they consider the commitment to have been made on inadequate grounds. L. and W. P., 11th April 1834, No. 156, Vol. II., ... 173

12. Remarks by commissioners and session judges on statements of prisoners acquitted, must not be communicated in the first instance to the committing officer, but to the Nizamut Adawlut. L. P., 22nd May 1835, No. 168, Vol. II., ... 181

13. When periodical statements are to be considered due. L. and W. P., 25th September 1835, No. 179, Vol. II., ... 187

14. Session judges before availing themselves of leave of absence, should prepare statements of prisoners convicted and acquitted at the sessions held by themselves. L. and W. P., 12th February 1836, No. 193, Vol. II., ... 194

15. Rules for the preparation of the Monthly and Annual Criminal Statements, with new forms. L. and W. P., 27th June 1842, No. 98, Vol. III, ... 276

16. A note to be inserted in the magistrate's monthly statement, showing the number of certain classes of offences not investigated under the operation of Regulation II. 1832. W. P.. 16th September 1842, No. 118, Vol. III, ... 336

17. In para. 73 of the rules for the preparation of criminal statements according to the new forms, the words "security to keep the peace," to be substituted by "penal recognizance to keep the peace." L. and W. P., 25th September 1843, No. 148, Vol. III., ... 359

18. Circulating a paragraph in substitution of para. 73, of rules for the preparation of criminal statements. L. and W. P., 24th October 1843. No. 149, Vol. III., ... 360

19. The powers exercised by the several officers of each district to be specified in part I., statement No. 1. L. P., 4th October 1844, No. 184, Vol. III, ... 379

20. Session judges to confine their attention in the preparation of annual reports on criminal justice, to the subjects denoted in paragraphs 5 to 11 of Circular Order, Nizamut Adawlut, No 98, dated 27th June 1842. W. P., 8th July 1845, No. 206, Vol III., ... 393

21. Instructions relating to entries in the sessions judge's statement No. 12, which is intended to show the average duration of cases, in the sessions courts. L. P, 22nd August 1845, No. 214, Vol. III., ... 398

22. Arson and incendiarism to be entered separately in the criminal statement No. 1, part I. L. P., 5th January 1849, No. 20, Vol. IV.,... 427

23. Rules for conduct of police officers in demanding bail from accused parties, and the due exhibition of results in the periodical statements. W. P., 27th January 1849, No. 21, Vol. IV., ... 428

24. Revised form of monthly statement No. 4, of suits under Act IV. 1840. L. and W. P., 1st June 1849, No. 25, Vol. IV., ... 431

25. The annual civil and criminal reports to be submitted by the 1st of February of each year. L. P., 25th November 1850, No. 47, Vol. IV., 443

26. Form of statement to enable the court to judge of the manner in which Act XVI. of 1850 is applied W. P., 20th May 1850, No. 39, and L. P, 13th May, 1851, No. 58, Vol. IV., ... 451

27. Instructions for classification of miscellaneous offences in the magistrate's monthly statement No. 2, part I. W. P., 11th April 1850, and L. P., 21st November 1851, No. 71, Vol. IV., ... 459

28. The entries under No. 9 of letter A. and No. 8, of letter S., in the schedule of offences accompanying the Circular Order No. 71, dated the 21st November last to be struck out of that schedule, and certain rules observed. L. P., 2nd April 1852, No. 82, Vol. IV., ... 473

29. Instructions regarding the preparation of the sessions statement No. 11. W. P., 21st October, and L. P., 23rd November, 1852, No. 95, Vol. IV., ... 483

30. Session judges to indicate in future by a note in the column of remarks, the number of persons included in the entry in column 10, part I of the session statement No. 1, who may have been discharged without trial. W. P., 26th October 1852, No. 96, Vol. IV., ... 483

31. With the annual criminal statements, magistrates to submit two returns, showing the number of persons apprehended and brought to trial during the year, and the result of the proceedings. W. P., 26th October 1852, No. 97. Vol. IV. 483

32. The information required in the forms of statements Nos. 11 and 13, will be supplied by the criminal authorities, and submitted with the annual criminal statements. L. P., 26th January 1853, No. 102, Vol. IV., ... 491

33. Form prescribed for the annual criminal report of the current and future years, which will be submitted on or before the 1st February of every year after they become due. L. P., 26th April 1853, No. 106, Vol. IV., ... 496

34. The transmission of the vernacular statements of the verdict of assessors or jurors, submitted with the jail delivery, to be discontinued · W. P., 23rd November 1853, No. 114, Vol. IV., ... 507

35. Sessions judges will, after despatch to the Nizamut Adawlut of their monthly statements of conviction and acquittal, send the office copies of them for the perusal of the commissioner to whose circle their district may belong. W P., 28th November 1853, No. 115, Vol. IV., 507

See "Bail."
„ "Watchmen."
„ "Trials referrible or called for."
„ "Dewanny prisoners."
„ "Session judges, powers and duties of."
„ "Statements, rules for the preparation of."
„ "Prisoners, Death of."
„ "Law Officers."
„ "Futwas."
„ "Canal law, breach of."

PERIOD OF APPEAL.

See "Appeals."

PERJURY.

1. Authorities by whom persons charged with perjury before the civil court, or before a session judge, are to be committed and tried. L. and W. P., 29th May 1835, No. 169, Vol. II, ... 182

2. Contradictory statements on a material point constitute perjury; and form of indictment in such cases. L. P., 18th June, and W. P., 23rd July, 1841, No. 126, Vol. III., ... 340

3. Civil judges making commitments for perjury or forgery, are to draw up the charge. L. and W. P., 12th March 1847, No. 4, Vol. IV.,... 418

4. Forms of charges of perjury. L. and W. P., 23rd July 1847, No. 10, Vol. IV., ... 422

5. Attention of sessions judges directed to the necessity of exercising caution in ordering the committal for perjury of parties who have contradicted before the sessions court the evidence given by them before the magistrate. W. P., 4th March 1850, No. 34, Vol. IV., ... 439

See "Forgery."

PERSIAN RECORDS.

See "Records, Destruction of."

PERSONAL DESCRIPTION OF PRISONERS.

See "Certificates."
„ "Convicts."

PERWANNAHS.

See "Addresses of native judges."

PETITIONS OF APPEAL.

See "Appeals."

PETTY OFFENCES.

1. The interference of the police officers in petty offences, except according to the provisions of Regulation XX. 1817, or other Regulation determining their duties, prohibited. 3rd October 1827, No. 331, Vol. I, ... 99

2. In summoning or apprehending persons charged with petty offences, magisterial authorities to adhere strictly to the rule prescribed in Clause 6, Section 2, Regulation III. 1812. 3rd April 1829, No. 19, Vol. II., ... 104

PLANS AND OTHER DOCUMENTS RELATING TO PUBLIC WORKS.

See "Public works."

PLEADERS (GOVERNMENT).

Instructions regarding the discretionary employment of pleaders on behalf of government in criminal trials which may be thought especially to require it. L. P., 26th September 1851, No. 68, Vol. IV., ... 457

PLUNDER.

Instructions regarding the entry and rendering in the vernacular of the offence generally designated plundering (Loot-oo-Taraj) which does not amount to robbery by open violence as defined in Clause 1, Section 3, Regulation LIII. 1803. L. P., 9th March 1852, No. 80, Vol. IV., ... 469

PLUNDERED PROPERTY.

Attention of magisterial authorities directed to the rules prescribed in Section 16, Regulation XX. 1817, for search of plundered property. 23rd July 1830, No. 55, Vol. II., ... 134

See "Stolen Property."

POISONOUS DRUGS.

See "Trials referrible or called for."

POISONOUS SUBSTANCES.

See "Chemical questions."

POLICE.

See "Suppression of Crime."
" "Zemindars."
" "Goindahs."
" "Confessions, extorted."

POLICE DUTIES.

1. Magistrates to observe a cautious, discreet, and conciliatory line of conduct, in exercising the authority vested in them, in order to secure the aid and influence of proprietors and local managers or agents of estates, in the performance of the police duties imposed upon them. 10th November 1820, No. 241, Vol. I., ... 74

2. Mode of proceeding in the magistrate's court on the receipt of reports from the police officers of neglect of police duties by land-holders. L. P. 12th June, and W. P., 31st July 1840, No. 52, Vol. III., 241

POLICE, ENTERTAINMENT OF.

Correspondence relative to the alleged custom of the inhabitants of villages entertaining the darogah and his followers, whenever he has occasion to proceed into the interior. 29th December 1826, No. 321, Vol. I., ... 97

POLICE OFFICERS.

1. Magisterial authorities to take special care to prevent police officers abusing the discretion with which they are vested in the apprehension of persons on suspicion of crime. 13th March 1829, No. 17, Vol. II., ... 103

2. Police Officers how to report on wounds of wounded or deceased persons. L. P., 25th June, and W. P., 10th August, 1847, No. 9, Vol. IV., 421

See "Petty Offences."
„ "Suttees."
„ "Plundered property, search of."
„ "Fires, accidental."
„ "Schedule of landed property."
„ "Troops, carriage for."
„ "Police duties."
„ "Darogahs."
„ "Declaration under Act V. 1840."
„ "Proceedings."
„ "Records."
„ "Periodical Reports and Statements."
„ "Warrants."
„ "Rules for police officers."
„ "Bailable offences."

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Section 22, Regulation XXII. 1793, and the corresponding enactments relating to criminal charges preferred against police officers, give an option either of a civil action or of a criminal prosecution before the Court of Circuit. It was not intended to except any complaints brought under these enactments from the regular course of procedure. 7th August 1804, No. 35, Vol. I., ... 9

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1. Manner in which deaths of prisoners detached from their own to other districts, are to be accounted for in the monthly criminal statement No. 5. W. P., 20th March, and L. P., 3rd April 1840, No. 40, Vol. III., ... 237

2. Magistrates to whose districts prisoners are sent, on obtaining information of their death, to forward the warrant sent with such prisoners, to the magistrate of the district whence they came, enclosed with a certificate of death under his official seal and signature.—*Ibid.*

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Process by which the evidence of a witness, is obtainable in a district, other than that in which he may be confined. W. P., 31st July 1840, No. 58, Vol. III., ... 244

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Magistrates may try persons charged with privity to offences beyond their cognizance, if principals have not been apprehended; but must commit if principals also have been apprehended. W. P., 5th November 1849, No. 32, Vol. IV., ... 435

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1. Proceedings on the commitment and trial of prisoners upon distinct charges, especially where the prosecutors are distinct, will, as far as posible, be kept separate. 24th March 1796, No. 2, Vol I., ... 1

2. Proceedings required by Regulation X. 1799, to be transmitted to the Nizamut Adawlut in trials referrible to that Court, will be trans-

mitted within 10 days, fixed by Section 68, Regulation IX. 1793. 11th September 1801, No. 27, Vol. I., ... 7

3. Native officers attached to the magistrate's court may be required to make copies of the original proceedings with the aid of additional mohurirs, if necessary; a contingent bill on this latter account being submitted for the sanction of Government.—*Ibid.*

4. The original proceedings of the magistrate will be transmitted without copies being kept, as they will be returned when the trial referred shall have been disposed of—*Ibid.*

5. Save in particular cases, judges of circuit will abstain from carrying away with them the magistrate's original proceedings in cases referred to them, and will return to the magistrate his original proceedings in cases referred to the Nizamut Adawlut. 28th December 1809, No. 61, Vol. I., ... 16

6. A magistrate will make application to the judge of Circuit whenever he may judge it necessary to be allowed to take a copy of his proceedings in a trial referrible to the Nizamut Adawlut, who, should he not comply with the application, will note the same in his letter accompanying the trial; when the Nizamut Adawlut will either take up the trial immediately or furnish the magistrate with the copy required. 25th July 1811, No. 94, Vol. I., ... 37

7. Darogahs to be instructed to specify in the proceedings the date and month of the era current within their respective jurisdictions. 13th August 1814, No. 139, Vol. I., ... 51

8. Particular attention of commissioners of circuit and session judges, directed to the Circular Order of the 16th July 1830, regarding the arrangement of the proceedings in trials referred. L. and W. P., 13th April 1832, No. 100, Vol II., ... 144

9. A session judge is competent to comply with a magistrate's application for the original or copies of the former officer's proceedings in a trial committed to the sessions. W. P., 8th December 1837, and L. P., 12th January 1838, No. 5, Vol. III.,... ... 221

10. Attention of the criminal authorities directed to the style to be used in their Bengalee proceedings. L. P., 2nd April 1841, No. 84, Vol. III., ... 271

11. Names of heathen deities not to be prefixed to proceedings of the courts. L. P., 3rd December 1841, No. 96, Vol. III., ... 276

12. When of two orders passed in any case, one may be appealable to the sessions court and the other not, a separate proceeding to be recorded for each. L. and W. P., 22nd April 1843, No. 135, Vol. III., 343

13. Rules for abridging the proceedings of the magistrates and police officers in the investigation of criminal offences. L. P., 16th June 1843, No. 138, Vol. III., ... 345

14. Attention drawn to the rules for abridging the proceedings of police officers. Session judges to take notice of neglect of the rules which may come under their observation. L. P., 7th April 1849, No. 23, Vol. IV., ... 430

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1. Mode of service and forms of processes under Act XXIII, 1840. L. P., 1st March, and W. P., 18th June 1841, No. 82, Vol. III., ... 253

2. Every criminal process to be directed to the justices of the peace for the town of Calcutta, but forwarded in an envelope to the Hon'ble Company's attorney; who will prepare it for endorsement by a judge of the Supreme Court, and then transmit it to the police office for execution. L. P., 18th October, and W. P., 29th November, 1844, No. 185, Vol. III., ... 379

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„ "Warrants."
„ "Notice to defendants in petty criminal cases."
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„ "Calcutta, Criminals apprehended in."

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1. Instructions for the more effectual promulgation of the proclamation prescribed by Section 3, Regulation IX. 1808. 24th February 1810, No. 64, Vol. I., ... 17

2. When there may appear sufficient grounds for the commitment of a prisoner who may surrender or be apprehended on a proclamation under Section 8, Regulation IX. of 1808, on a specific charge of any other crime or offence which may render him liable to an equal or a greater degree of punishment, a magistrate may, under Section 10 of the same Regulation, bring him to trial before a court of circuit; and the judge in referring to the Nizamut Adawlut the case of a prisoner convicted under Section 8, will state whether or not the prisoner has been tried or committed for trial on any other specific charge under Section 10, and transmit any proceedings held on such other trial. 25th June 1810, No. 71, Vol. I., ... 23

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1. To prevent a protracted detention of prosecutors and witnesses at the sessions, magistrates will, on receipt of information of the date on which the judges of circuit propose to commence the jail deliveries, summon those in a few of the first trials on the calendar, and when the trials commence, a few more, and so on in regular succession as the trials proceed. 6th September 1810, No. 75, Vol. I., ... 27

2. The practice of seizing and placing under restraint the person of a witness for the purpose of securing his due attendance being unauthorised, police officers should, according to Section 15, Regulation IX. 1807, merely take a moochulka from a prosecutor or witness, binding him to appear before a magistrate on a specific day; and in cases wherein the law does not specifically direct a moochulka to be taken, a written acknowledgment of the receipt of the summons served, might be required. 23rd June 1814, No. 133, Vol. I., ... 45

3. Magistrates should take the depositions of complainants, and not merely swear them to the truth of their petitions. W. P., 23rd June 1849, No. 27, Vol. IV., ... 432

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2. Whenever a doubt exists as to the higher or lower degree of offence committed, the charge will always be made for the higher degree. —*Ibid.*

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SALARIES AND ALLOWANCES.

See "Ministerial officers."
„ "Darogahs,"

SCHEDULE OF LANDED PROPERTY.

1. Native officers, judicial, ministerial, or police, (present incumbents as well as those who may be appointed in future), to be required to file schedules of their landed property and future acquisitions, on pain of dismissal from office. L. and W. P., 27th February 1835, No. 163, Vol. II., ... 179

2. Schedule of landed property not to be required from native officers, who receive less than Rupees 20 per month. W. P., 10th April, and L. P., 4th September 1835, No. 166, Vol. II., ... 180

3. Native officers to include in their schedules all land held by them under whatever tenure. W. P., 29th May, and L. P., 3rd July 1835, No. 170, Vol. II., ... 183

4. In what offices the schedules are to be registered.—*Ibid.*

SCHEDULE OF MISCELLANEOUS OFFENCES.

See "Periodical Reports and Statements."

SECOND TRIALS.

See "Trials, (second)"

SECURITY.

See " Bailable offences."
„ " Moochulkas."

SECURITY BONDS.

1. Rules respecting the enforcing the penalty of security bonds and limitation of the amount of security to be required. 27th April 1810, No. 70, Vol. I.,... 22

2. In enforcing, under Circular Order, 27th April 1810, a penalty bond entered into by a surety for the peace who is defunct, the magistrate will proceed against the heirs and executors of the surety to the extent of any property belonging to the deceased which may have come to their hands. Penalty bonds should therefore specify the responsibility to which heirs and executors of the surety will be liable. 30th August 1810, No. 74, Vol. I., ... 26

3. Sureties, or, in the event of their demise, their representatives, may, by delivering up the person for whom they are responsible, obtain discharge from further responsibility.—*Ibid.*

4. It is optional with parties nominated to offices under Government to have the security bonds prepared by their own advisers. L. P., 24th November 1851, No. 72, Vol. IV., ... 463

5. Resolution of the Supreme Government of India, regarding the preparation and execution of documents connected with the appointment of public servants. L. P., 23rd January 1852, No. 77, Vol. IV., 465

SECURITY FOR GOOD CONDUCT.

1. Prisoners confined till they furnish security, may be employed on public works in the same manner and with the same restriction as convicts are employed under Circular Orders, 6th April and 10th August, 1796. But they will not be employed at any distance from the sudder station, or where they may be subject to difficulty in procuring sureties. 2nd August 1810, No. 72, Vol. I., ... 24

2. Magistrates to certify to the court of circuit, whenever they detain a prisoner for security, for good behaviour, after he has been tried and discharged by the court of circuit. 20th April 1818, No. 201, Vol. I., ... 67

3. The attention of magistrates and joint magistrates called to the necessity of exercising with due caution and discretion the powers they possess under Regulation VIII. 1818, of requiring security of individuals of bad character. 8th June 1821, No. 245, Vol. I., ... 75

4. Magisterial authorities cautioned not to confine individuals on a requisition of security for good conduct without proof warranting the imputation of bad livelihood at the time of apprehension. 26th September 1828, No. 9, Vol. II., ... 102

5. Regulation VIII. 1818, was not intended to authorise the confinement of an individual in jail on a requisition of security for good conduct without proof of recent circumstances warranting the imputation of dishonest livelihood at the time of apprehension; and Clause 2, Section 8, empowers a circuit Judge, on the petition of a prisoner, to call for the proceedings, and annually modify or confirm the order of the magistrate. 15th May 1829, No. 26, Vol. II., ... 106

6. Section 4, Regulation IV. 1825, does not preclude an individual in confinement for security, from preferring an appeal to the courts of circuit at the sudder station, when no order may have been passed on his case by the judge of circuit at the sessions of jail delivery preceding. 15th May 1829, No. 26, Vol. II., ... 106

7. Instructions as to the applicability of Act XXXI. 1841, to the cases of persons detained in confinement in default of security. L. and W. P., 1st July 1842, No. 113, Vol. III., ... 334

SECURITY OF NATIVE OFFICERS.

1. Public officers, vouching for the sufficiency of the security of treasurers and other native officers, entrusted with public money, will be considered responsible for the safety of the public funds entrusted to such officers, and held accountable for any insufficiency of security. L. and W. P., 3rd July 1835, No. 171, Vol. II., ... 183

2. Officers, who are required to report on the securities of their subordinates, entrusted with public money, to submit the same on the 1st February of each year. L. P., 16th December 1836, and W. P., 26th January 1837, No. 216, Vol. II., ... 200

3. Security to be required from officers appointed to the charge of both magistrate's and collector's treasuries. L. P., 5th June 1840, No. 51, Vol. III., ... 241

4. The security statements of native officers of magistrate's courts, dispensed with. L. P., 2nd July 1841, No. 87, Vol III., .. 273

5. All security bonds executed by sureties of treasurers, nazirs, or other ministerial officers attached to the judicial courts, to be registered prospectively; the fees being defrayed by the party from whom the security is demanded. L. and W. P., 2nd May 1843, No. 136, Vol. III., ... 344

6. Form of security bonds to be executed by the sureties of the judicial treasurers or other officers, entrusted with the charge of money, whether public or belonging to private individuals. W. P., 25th October 1844, No. 188, Vol. III., ... 381

SENTENCES.

Extract of a letter from the Court of Directors, recommending that sentences be passed in the most public manner, and that the opportunity thereby presented in crowded courts, be taken for explaining recent penal enactments. 24th February 1816, No. 160, Vol. I., ... 55

See "Warrants on execution of sentences," No. 1.
„ "Thefts."
„ "Imprisonment for life."
„ "Warrants in capital cases."
„ "Appeals."
„ "Corporal punishment."
„ "Condemned criminals."
„ "Affray with homicide."

SENTENCES, (LIMITED.)

See "Certificates," No. 1.

SENTENCES, FORMS OF.

Form for warrants of sentences under Section 3, Regulation II. 1834, awarding imprisonment and a fine in lieu of labour. L. and W. P., 6th June 1834, No. 146, Vol. II., ... 169

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1. Sepoys of the regular battalions will be exempted from the duty of guarding prisoners when taken out to ease themselves. 17th April 1810, No. 69, Vol. I., ... 21

2. Correspondence with Government on the subject of imposing fetters on native soldiers and camp followers, made over to the civil authothorities to undergo sentences of imprisonment adjudged by courts martial. W. P., 27th January 1844, No. 155, Vol. III., ... 363

SESSIONS COURTS.

See "Trials, conduct of."

SESSIONS JUDGES, POWERS AND DUTIES OF.

1. Session judges, vested with the powers of commissioners under Act VII. 1835, are required to visit the criminal jails of the sudder stations of the district once a month. L. P., 19th May, and W. P., 7th July 1837, No. 231, Vol. II., ... 206

2. Duties of session judges vested with the powers of commissioners under Act VII. 1835. L. P., 19th May 1837, No. 233, Vol. II., ... 207

3. Session judges leaving their offices before the close of the year to place on record their opinion of the proceedings of their subordinates. W. P., 25th January, and L. P., 6th May 1842, No. 103, Vol. III., ... 329

4. Duties of session judges under Section 5, Act XXXI. 1841. L. and W. P., 18th March 1842, No. 106, Vol. III., ... 331

5. Session judges may, with reference to Act XXXI. 1841, direct the commitment of a person released by the magistrate, when the case is beyond the magistrate's control to dispose of on trial. W. P., 16th December 1842, No. 123, Vol. III., ... 338

6. A Report under C. O. No 106, 18th March 1842, and Sec. 5, Act XXXI. 1845, not to be submitted to the Nizamut Adawlut until a copy of it has been forwarded for explanation to the officer whose proceedings it is intended to bring to the notice of the court. On receipt of the explanation, if it be still thought necessary to submit the report, the explanation and remarks of the referring officer on it, to be annexed thereto. L. P. 17th July, and W. P. 15th August 1851, No. 65, Vol. IV., ... 455

See "Rewards."
„ "Trials, postponement of."
„ "Periodical Reports and Statements."
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SESSIONS JUDGES, POWERS AND DUTIES OF—*(Continued.)*

See "Proceedings."
„ "Clerks (head), employment of."
„ "Special session judge."
„ "Criminal courts."
„ "Commitments."
„ "Appeals"
„ "Stolen property, receipt of."
„ "Absence, Leave of."

SESSIONS OF JAIL DELIVERY.

1. With a view to prevent delay in the commencement of the half-yearly sessions of jail delivery, judges of circuit, when prevented from proceeding on circuit at the fixed period, to report the same to the Nizamut Adawlut one month or six weeks prior to that period. 6th August 1824, No. 298, Vol. I., ... 88

2. Whenever a sessions judge is unable to hold sessions for a period exceeding one month, the circumstance should be communicated to the commissioner of the division, that the necessary arrangements may be made. L. and W. P., 3rd August 1832, No. 115, Vol. II, ... 149

See "Commitments."
„ "Calendar."
„ "Bail."
„ "Commissioners of circuit."
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SHERIFF'S OFFICERS.

Nature of the assistance to be rendered to the sheriff's officers charged with writs of capias. L. and W. P., 12th June, and 10th July 1846, Nos. 231 and 232, Vol. III., ... 408 & 412

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See "Commitments by the general superintendent for the suppression of thuggee."

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Rules in regard to filed stamps, prescribed by the Circular Order No. 55, of the 14th May 1844, extended to the criminal department. W. P, 11th, and L. P., 29th October 1852, No 98, Vol. IV., ... 487

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„ "Bail."
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„ "Prisoners, death of."
„ "Trials, referrible or called for."
„ "Canal law, breach of."
„ "Security of native officers."

STOCKS.

See "Jails, Management of."

STOLEN PROPERTY.

1. Magistrates will certify to courts of circuit the execution of orders for restoration of stolen property found on prisoners convicted, and such certificate shall be preserved among the records of the said Courts. 5th May 1796, No. 5, Vol. I, ... 2

2. Magistrates will, relative to the search by Police officers for stolen or plundered property, conform strictly to the Rules contained in Section 16, Regulation XX 1817, and will be particular in transmitting the chalan of stolen or suspected property obtained during a search in the form No. 3, prescribed by that Regulation; and judges of circuit will enter upon the record of such trial, the original chalan, with a Persian translation, when the original may be in any other language. 24th November 1821, No. 247, Vol. I., ... 76

3. Courts of circuit and magistrates to number and describe articles of stolen or plundered property, according to the number and description affixed to them in the chalan, which the Police Darogah is required to transmit by Clause 2, Section 16, Regulation XX. 1817. 16th May 1823, No. 276, Vol. I., ... 81

STOLEN PROPERTY, RECEIPT OF.

1. Distinction to be observed in the cases of persons convicted of having stolen property in their possession, between those who, at the time of receiving such property, knew that it had been obtained by

theft or robbery, and those who are convicted of having such property in their possession, knowing the same to have been stolen at a time subsequent to their receiving or purchasing it. 12th August 1813, No 124, Vol. I. 44

2. It is in the discretion of the Magistrate not to punish at all in cases in which no criminal act shall appear to be fairly imputable to the bonâ fide purchaser or possessor of property acquired by robbery or theft. 25th January 1819, No. 215, Vol. I., ... 70

3. When possession of property is determined in the circumstances, to be an offence punishable, by the futwa, at discretion, it should be punished as a misdemeanor not of a very serious nature, and the sentence should not be the same as for the offence of criminal receipt, but should, in most cases, be equal to that to which magistrates are limited by Regulation XII. 1818, and when a higher penalty is adjudged, the grounds of the sentence should be inserted in the abstract statement of prisoners punished without reference.—*Ibid*

4. Law officers, when intending to convict of criminal receipt of stolen property or property acquired by robbery or theft, should specify in their futwa the evidence as well to the mode and circumstances of the receipt as to the mere fact of possession.—*Ibid.*

5. Attention of the criminal authorities directed to Construction No. 857; and instructions communicated relative to the wording of charges for receiving stolen or plundered property. L. P., 19th September, No. 215, and W. P, 10th November 1845, No. 217, Vol. III, ... 399

6. Sessions judges to note on the record of trials held without the aid of a law officer, the law applicable to it.—*Ibid.*

See "Law officers."
„ "Periodical Reports and Statements."
„ "Receivers of stolen property."

STRIPES.

See "Constructions."
„ "Corporal punishment."

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See "Assistants."

STYLE OF BENGALEE PROCEEDINGS.

See "Proceedings."

SUBORDINATE MEDICAL OFFICERS.

Recommendations touching the emoluments of the subordinate medical officers, to be submitted through the regular channel, to the Medical Board direct. W. P., 18th September 1840, No. 63, Vol. III., ... 247

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See " Witnesses."

SUBSISTENCE OF CHOWKEDARS.

See " Appeals."

SUDDER AMEENS.

Sudder ameens not to take the examination of any prisoner in any case which he may not be competent finally to decide, and which may not have been sent to him for decision without reference to any superior authority. 8th January 1830, No. 45, Vol. II., ... 115

See " Addresses of native judges."
„ " Criminal trials."
„ " Appeals."

SUICIDE.

See " Inquests."

SUITS UNDER ACT IV. 1840.

1. Construction 1344 superseded. None but magisterial authorities can decide suits under Act IV. 1840. L. P., 28th February, and W. P., 15th March 1845, No. 196, Vol. III., ... 389
2. In cases instituted under Act IV. 1840, absolute proof of actual forcible dispossession is an indispensable condition to the restoration of the party complaining to possession. W. P., 16th April 1845, No. 200, Vol. III., ... 390

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SUPERANNUATION PENSIONS.

See " Jailors."

SUPERINTENDENT AND REMEMBRANCER OF LEGAL AFFAIRS.

See " Government advocate."

SUPERINTENDENT FOR THE SUPPRESSION OF THUGGEE.

See " Thugs and Thuggee."

SUPERINTENDENT OF POLICE.

1. Orders on the subject of certain circulars issued in consequence of the re-establishment of the office of superintendent of police. L. P., 2nd February 1838, No. 7, Vol. III.,... 221
2. Commissioners of circuit, exercising the powers of magistrates in districts, in which they hold sessions, to report the circumstance through

the Nizamut Adawlut to Government, and to refrain as much as possible, from interfering, as superintendent of police, in cases which may come before them in another capacity. L. and W. P., 26th October 1832, No. 123, Vol. II., ... 153

See "Government advocate."
„ "Appeals."

SUPREME COURT.

See "Natives."
„ "European British subjects."
„ "Processes."
„ "Commission of the peace."
„ "Documents, production of, in the Supreme Court."
„ "Writs."

SUPPRESSION OF CRIME.

In order to obtain the co-operation of land-holders in the suppression of crime, a magistrate will assemble and explain to their naibs or agents attending the station, the purport of the Regulations, the assistance expected from them, and the consequences of any omission or neglect on their part, either to assist the police or to deliver up notorious offenders. 31st May 1809, No. 53, Vol. I., ... 13

SURETIES, HEIRS OF.

See "Security Bonds."

SURGEONS.

1. Explanations to be furnished by the civil surgeons and magistrates, whenever the deaths among the prisoners exceed one per cent. per mensem. L. and W. P., 24th December 1835, No. 187, Vol. II.,... 192

2. It rests with the surgeon to decide whether wounded persons, sent to him for examination, shall be placed in the hospital for treatment or not. L. P., 25th, and W. P., 30th August 1843, No. 142, Vol. III., 353

See "Bodies for examination."
„ "Periodical Reports and Statements."
„ "Inquests."
„ "Insane persons."

SURGEONS, EVIDENCE OF.

When the evidence of the civil surgeon may be necessary in cases of murder or wounding, it should in the magistrate's court be taken on oath. L. P., 27th March, and W. P., 1st May 1840, No. 42, Vol. III., ... 239

SURVEY MAPS.

See "Boundary disputes."

SUTTEES.

1. Copies of special instructions in the native languages, for the guidance of the police officers in cases of suttee, with English translations thereof. 4th December 1829, No. 43, Vol. II., ... 113
2. Construction No. 1125 superseded; and conviction of the offence of aiding and abetting in a suttee, declared to include liability to labour. L. and W. P., 30th October 1840, No. 70, Vol. III., ... 250

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See "Chowkeedaree Tax."

TEHSEELDARS.

Extract from the Government orders regarding the investiture of tehseeldars with police powers, under Regulation XI. 1831. W. P., 30th January 1852, No. 78, Vol. IV.,... 465

TEMPORARY ESTABLISHMENT.

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Resolution of Government regarding the purchase of tents for the use of magistrates. L. P., 16th October 1840, No. 65, Vol. III., ... 248

THAKBUST PAPERS.

See "Boundary disputes."

THANGEEDAREE.

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THEFT.

1. When a prisoner, convicted of theft only, may be declared liable to a sentence of hudd, or discretionary punishment, the court of circuit cannot sentence him to a heavier punishment than 7 years' imprisonment without stripes; and consequently when it may be deemed, in discretionary cases, expedient to adjudge stripes, the period of imprisonment in addition should not exceed six years; nor should it be for so long a period, when the futwa of the law officer may declare the penalty of hudd to be remitted or mitigated. 5th March 1812, No 110, Vol. I., ... 40
2. Act III. 1844, held to be inapplicable to attempts to commit theft. W. P., 27th February 1847, No. 3, Vol. IV., ... 417

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„ "Chowkeedars, duty of."
„ "Corporal punishment."

THUGS AND THUGGEE.

1. The Urdoo language to be used in proceedings connected with charges for thuggee. L. and W. P., 11th August 1837, No. 241, Vol. II., ... 213

2. Magistrates and other authorities, in the trial of thug prisoners, brought before them under the provisons of Act XXX. 1836, to attend to the established forms laid down for their guidance in holding criminal trials, and to affix to the record of each trial the tender of pardon, and the prisoner's acceptance of the same. L. P., 22nd September 1837, No. 246, Vol. II., ... 214

3. Persons supposed to belong to an association for robbing and murdering travellers, &c., will be made over to the assistant to the general superintendent for the suppression of thuggee, whose duty it will be to commit such persons for trial to the special sessions judge. L. P., 27th August 1841, No. 92, Vol. III., ... 274

See "Commitments by the general superintendent for the suppression of thuggee."
„ "Approvers."
„ "Confessions."

TOLLS.

See "Ferry Tolls."

TRADES-PEOPLE.

See "Troops."

TRANSPORTATION.

In sending down to the 24-Pergunnah jail, convicts for transportation, magistrates will, with them, send to the magistrate of that district an accurate list in the form circulated. 3rd August 1796, No. 7, Vol. I., 3

See "Applications for removal of convicts."
„ "Convicts sentenced to transportation or banishment."
„ "Imprisonment for life"
„ "Imprisonment for life not in transportation."

TRAVELLING ALLOWANCES.

Travelling allowances to ministerial officers, when required to accompany their superiors by dâk, authorised at 4 annas per mile, and at 3-10ths of their salaries during halts. L. P., 15th August 1845, No. 212, Vol. III, ... 397

TREASURIES.

The charge of treasuries to devolve, in all practicable cases, on covenanted, rather than on uncovenanted, officers. L. P., 26th February 1841, No. 81, Vol. III., ... 253

See "Security of native officers."

TRIALS AT STATIONS DIFFERENT TO THOSE OF COMMITMENT.

Whenever it may be deemed expedient to bring a prisoner to trial at a station different from that at which he was committed, a representation of the circumstance to be made to Government, or to the Nizamut Adawlut; and the authority when received to be specified in the proceedings. 6th April 1827, No. 323, Vol. I., ... 98

TRIALS, CONDUCT OF.

1. A judge of circuit taking further evidence in a postponed trial, will complete the same by passing sentence. 2nd April 1812, No. 111, Vol. I., ... 41

2. A judge directing such postponement, will record his reasons for doing so, and the specific points on which further evidence is required. —*Ibid.*

3. Judges of circuit not to hold more than one trial at the same time. 22nd October 1813, No. 125, Vol I., ... 45

4. A person once tried upon any charge and acquitted, not to be committed or held to bail for a second trial on the same charge. 13th November 1816, No. 177, Vol. I., ... 58

5. Observations and instructions on the inconvenience experienced by prosecutors and witnesses from the postponement of trials from one session to another. 20th April 1818, No. 199, Vol. I., ... 66

6. Courts of circuit to observe an uniform practice in obtaining the exposition of the law from the presiding law officer, in trials for murder. 7th January 1820, No. 228, Vol. I., ... 72

7. Judges of circuit to exercise their discretion in concluding the trial of the prisoners whose cases may be completed, and passing sentence on them; postponing a final decision on that part of the trial only, which affects the prisoners for whom further evidence may be required. 17th December 1824, No. 302, Vol. I., ... 91

8. The judge presiding at a trial to compare the written charge on which a prisoner is committed with the facts of the case as stated in the magistrate's roobukary of commitment, and to cause the magistrate to rectify what may be erroneous, and supply what may have been omitted. L. and W. P., 22nd February 1833, No. 135, Vol. II., ... 161

9. The trial of all cases committed and ready for trial previous to the commencement of the vacations, should, on the principle of Section 4, Reg. III., 1798, be completed though the vacation should commence. L. and W. P., 22nd November 1833, No. 141, Vol. II., ... 166

10. Trials in which religious prejudices are concerned, in all possible cases to be tried by jury. W. P., 24th September 1844, No 181, Vol, III., ... 378

11. Session judges to specify distinctly in their vernacular proceedings the particular count, the averments of which they conceive to have been established against an accused. L. P., 18th February 1851, No. 54, Vol IV., ... 448

12. Rules regarding the conduct of criminal trials in sessions courts. W. P., 29th July 1852, No. 88, Vol. IV., ... 479

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„ "Proceedings"
„ "Prisoners, Age of."

TRIALS, CONDUCT OF—*(Continued.)*

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„ "Depositions."
„ "Admonition to be enjoined on witnesses."
„ "Inquests."
„ "Sentences."
„ "Trials at stations different to those of commitment."
„ "Trials of offences committed out of the British Provinces."
„ "Confessions."
„ "Criminal trials, rules for holding."
„ "Trials, mode of distinguishing."
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„ "Letters notifying commitment and trial."
„ "Commitments by sessions judges in their civil capacity."
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„ "Commitments by the General Superintendent for the suppression of Thuggee."
„ "Dacoity."
„ "Stolen property, receipt of."
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TRIALS, MODE OF DISTINGUISHING.

Mode of distinguishing trials by the months in which they are held. L. and W. P., 22nd June 1832, No. 108, Vol. II., ... 146

TRIALS OF OFFENCES COMMITTED OUT OF THE BRITISH PROVINCES.

When individuals are brought to trial for offences committed out of the limits of the British provinces, a copy of the magistrate's letter, applying for the authority of Government, to be filed with the proceedings of the case. 6th June 1828, No. 4, Vol. II., ... 101

TRIALS, POSTPONEMENT OF.

Trials not to be postponed by sessions judges beyond the session next after the six months from the date of commitment, except for special reasons, to be reported to the Nizamut Adawlut. L. and W. P., 18th January 1833, No. 132, Vol. II., ... 159

See "Trials, conduct of."

TRIALS REFERRIBLE OR CALLED FOR.

1. Courts of circuit to annex to the record of trial, in each case referred to the Nizamut Adawlut, a copy of the magistrate's Persian calendar of commitment. 21st February 1823, No. 273, Vol. I., ... 81
2. All trials in which the prisoners may be convicted of administering poisonous drugs to persons, with a view to rob them when in a state of insensibility, whether death may ensue or otherwise, to be referred for

the final sentence of the Nizamut Adawlut. 7th May 1824, No. 291, Vol. I., ... 84

3. Commissioners and sessions judges to submit, with all trials called for on perusal of jail delivery statements, an extract from the statements of convictions and acquittals. L. and W. P., 29th June 1832, No. 110, Vol. II., ... 147

4. Circular Order of 29th June 1832, applicable to criminal trials called for by letter or by precept. L. and W. P., 8th August 1834, No. 149, Vol. II, ... 170

5. In the marginal note of the letter referring trials to the Nizamut Adawlut, the date of the apprehension and commitment of each prisoner, and the date on which the crime is alleged to have been committed, is to be entered. L. and W. P., 8th August 1834, No. 148, Vol. II., 170

6. When trials are referred to or called for by the Nizamut Adawlut, copies of the proceedings of the sessions judge or commissioner, and the original proceedings of the magistrate, must be submitted. L. and W. P., 15th January 1836, No. 191, Vol. II., ... 194

7. In referred trials, sessions judges to mention what punishment they consider adequate. L. P., 5th April, and W. P., 6th May 1839, No. 22, Vol III., ... 229

8. Description of cases referrible to the Nizamut Adawlut, under the provisions of Clause 1, Section 4, Regulation VI. 1832. L. P., 19th June, and W. P., 24th July 1840, No. 55, Vol. III, ... 243

9. Those cases only are referrible to the Nizamut Adawlut under Circular No. 291 of 7th May 1824, in which the prisoner is accused and convicted of having administered poisonous drugs. L. and W. P., 18th September 1840, No. 64, Vol. III., ... 247.

10. Sessions judges to note in the margin of letters which accompany trials referred or called for, whether the prisoners are in jail or on bail; and in the latter case from what date. L. P., 24th November 1843, No. 147, Vol. III., ... 359

11. With reference to Circular Order No. 110, 29th June 1832, sessions judges are required to annex to the proceedings in criminal trials called for by the Nizamut Adawlut, an extract from the sessions statements. W. P, 14th May 1844, No. 164, Vol. III., ... 370

12 Rules to be observed in sending records of trials referrible to or called for by the Nizamut Adawlut. L. P., 25th October 1844, No. 187, Vol. III., ... 381

13. The names of those only in regard to whom a trial is referred, are to be mentioned in the letter of reference; and no papers are to be sent which relate exclusively to those who are acquitted, &c. W. P., 2nd May 1846, No. 228, Vol. III., ... 406

14. The names of witnesses not named in the magistrate's calendar, to be entered therein by sessions judges in trials referred or called for. L. P., 12th June 1846, No. 230, Vol. III., ... 407

15. Magisterial authorities, when more than one prisoner is included in the calendar, to submit an additional statement in the form prescribed, which will form part of the nuthee in all cases referred to, or called for, by the Nizamut Adawlut. L. P., 31st August 1853, No. 111 Vol. IV., ... 501

16. In referred cases the sessions judge will note in red ink, in the margin of his report, the name and number of the witness to whom he may refer.—*Ibid.*

See "Confessions."

„ "Proceedings."

See "Trials."
„ "Date of crime."
„ "Sessions judges, powers and duties of."
„ "Arson"
„ "Decisions and reports on criminal trials."
„ "Confessions"

TRIALS (SECOND).

Section 2, Act XXXI. of 1841, held to confer upon every convicted offender the privilege of demanding a re-hearing of his case. W. P., 14th May 1844, No. 165, Vol. III., ... 371

TROOPS.

The practice of pressing tradespeople and artisans by magistrates to follow military camps, with or without remuneration, interdicted. W. P., 24th August 1844, No. 176, Vol. III., ... 375

TROOPS, CARRIAGE FOR.

1. Clause 3, Section 1, Regulation XI. 1806, has not been superseded by Regulation VI. 1825, which only confers additional powers on the revenue authorities, leaving the provisions of the former enactment, in regard to the assistance which police officers are required to render in order to provide carriage for troops on the line of march, exactly as they were. L. and W. P., 25th November 1836, No. 214, Vol. II., ... 199

2. Under Clause 3, Section 1, Regulation XI. 1806, every description of carriage of the nature therein referred to, whether kept for private use or for hire, is liable to be seized for the use of troops on the line of march; though the compulsory exaction of the services of begarees, coolies, &c., is expressly prohibited by Regulation III. 1820. —*Ibid.*

3. Officers of Government should not seize carriage for the transport of rum or other supplies, required for military purposes, unless required for the use of troops on the line of march; nor should they impress men for the department of public works.—*Ibid.*

TULABANA OF PEONS.

Peons not to exact tulubana when entrusted with perwannahs addressed to land-holders on police or other matters. L. P., 1st November 1839, No. 33, Vol. III., ... 232

See "Muzkooree Peons."

U.

UNAUTHORISED FUNDS.

See "Funds."

UNCLAIMED PROPERTY.

See "Registers."
„ "Nazirs of the Foujdarry Court."

UNCOVENANTED JUDGES.

1. Native judges and law officers prohibited from engaging in any trading speculation. L. and W. P, 20th June 1842, No. 109, Vol. III, ... 332
2. The rule in Section 2, Regulation XXXVIII. 1793, prohibiting judicial officers from lending money to persons within their jurisdiction, extended to uncovenanted judicial officers. L. P., 25th October 1844, No. 186, Vol. III, ... 380
3. Rule in Section 2, Regulation XIX. 1803, prohibiting officers from lending money within their jurisdiction, extended to all uncovenanted judicial officers. W. P., 5th March 1845, No. 198, Vol. III., .. 389
4. Uncovenanted officers not vested with the powers of a magistrate, are not authorised by Act XXVII. 1845, to decide cases under Act IV. 1840. L. P., 27th September 1850, No. 43. Vol. IV., ... 441

See "Addresses of native judges."
„ "Criminal trials."
„ "Representations by uncovenanted judges."
„ "Law Officers."
„ "Sudder Ameens."
„ "Schedule of landed property."
„ "Appellate jurisdiction."
„ "Native judges."
„ "Appeals."
„ "Uncovenanted judicial officers."

UNCOVENANTED OFFICERS.

See "Treasuries."

URDU LANGUAGE.

See "Thugs and Thuggee"
„ "Official correspondence."

UTENSILS, COOKING.

See "Messes for convicts."

V.

VACATIONS.

See "Trials, conduct of."
„ "Moonsiff's records."

VAGRANTS.

The practice of some magistrates of sentencing vagrants and offenders to banishment from a city or zillah or from the British Territories,

declared illegal, and prohibited. 24th February 1816, No. 159, Vol. I., ... 55

See "Constructions."

VENUE, CHANGE OF.

See "Trials at stations different to those of commitment."

VERDICT OF ASSESSORS OR JURORS.

See "Periodical Reports and Statements."

W.

WARRANTS.

1. Commissioners of circuit to insert in their warrants, the period of imprisonment in words as well as in figures. 17th December 1830, No. 67, Vol. II., ... 136

2. Magistrates to conform strictly to the rules in Regulation IX. 1807. No warrant to be issued for the apprehension of persons not expressly named; and sessions judges to notice any instance in which this rule may be violated. L. P., 7th July 1843, No. 141, Vol. III., ... 353

3. Form of warrant upon report of a police officer or credible information, to be used under Act XXIII. 1840. L. P., 7th April, and W. P., 11th May 1849, No. 24, Vol. IV., ... 430

See "Labour, exemption from."
„ "Register of warrants."
„ "Prisoners, death of."
„ "Witnesses."
„ "Dewanny Prisoners."

WARRANTS IN CAPITAL CASES.

1. Warrants of sentences of death altered with reference to Circular Order, 5th March 1810, which vested a discretion in the magistrates to execute criminals under sentence of death, at such place within their respective jurisdiction as might appear to them expedient. 20th November 1816, No. 180, Vol. I., ... 59

2. Magistrates to make their future endorsement on a warrant in a capital case to correspond with the form circulated. 9th August 1822, No. 260, Vol. I., ... 77

See "Capital Sentences."
„ "Sentences, form of."

WARRANTS ON EXECUTION OF SENTENCES.

Warrants will be returned to the Court by which they are issued after the complete executions of the sentence they contain, with an endorsement certifying the manner of execution. In cases where both corporal punishment and imprisonment have been adjudged, the endorsement of the execution of the former part of the sentence will be

made immediately: but the warrant will not be returned duly endorsed until the expiration of the term of imprisonment or the death of the prisoner, should that happen before that period. 19th June 1804, No. 34, Vol. I., ... 8

See "Death warrants."

WARRANTS, REGISTER OF.

1. Form of register of warrants of criminal sentences. W. and L. P., 15th May 1835, No. 167, Vol. II., ... 181

2. The register of warrants prescribed by Circular Order, 15th May 1835, to be kept up in English. L. and W. P., 17th March 1837, No. 225, Vol. II., ... 205

3. Register of warrants, certificates granted to prisoners, and endorsement of mitigated punishment on prisoners' warrants, are designed to guard against the detention of convicts beyond the term of their sentence. L. and W. P., 30th March 1839, No. 21, Vol. III., ... 228

WATCHMEN.

1. Magistrates to mention in the statements of prisoners punished under Regulation XII. 1818, in the cases of watchmen, whether they were employed as such at the time of committing the offence, and not to regard their offence aggravated because they were watchmen formerly, or of their being so denominated. 25th June 1824, No. 297, Vol. I.,... 87

2. Private watchmen declared to be within the meaning of the rule in Clause 2, Section 2, Regulation XII. 1818. L. and W. P., 31st March 1847, No. 5, Vol. IV., ... 418

WELLS.

In order to guard against the frequent loss of lives by persons falling into uncovered wells, proprietors of wells should be advised and enjoined to render them as secure as possible, and magistrates are authorised to defray any inconsiderable expense for making a public well secure, and to charge the amount in their monthly contingent bills. 21st October 1817, No. 191, Vol. I., ... 92

WIFE, RESTORATION OF TO HER HUSBAND.

See "Magistrates, powers and duties of."

WINDOWS.

See "Glazed doors and windows."

WITNESSES.

1. Rules for examining and recording the examinations of witnesses and others in the civil and criminal courts. L. and W. P., 27th January 1837, No. 220, Vol. II., ... 203

2. Instructions regarding the mode of obtaining the evidence of witnesses residing in Calcutta with reference to the provisions of Act XXIII. of 1840. L. P., 18th December 1840, No. 76, Vol. III., ... 252

3. Form of diary of witnesses in attendance in the magistrate's courts, to be adopted as a means of preventing the prolonged detention of witnesses. L and W. P, 22nd January 1845, No. 194, Vol. III., ... 385

4. Witnesses for the defence, to be examined on the points to which they are summoned to testify; cross-examined as to statements made by them in answer to the prisoner's questions; and closely scrutinized as to their personal knowledge of the circumstances they are cited to prove. L. P., 26th February 1847, No. 2, Vol. IV., ... 417

5. Instructions as to the manner in which the signatures of witnesses to their depositions should be subscribed on the record. L. P., 17th December 1851, No. 74, Vol. IV., ... 464

6. A magistrate may enforce the attendance of a British subject to give evidence in a criminal case, as he would the attendance of any other witness; and under Regulation IV. of 1793, may cause him to be seized and brought before his court, but he has no power to punish him, if he refuse to give evidence. In such case, if the evidence be material, the Government may indict him in the Supreme Court for obstruction of justice. L. P., 6th January 1853, No. 109, Vol. IV., ... 488

7. A tender of expenses with the subpœna, to such witness, if poor, is necessary to secure his conviction in the Supreme Court —*Ibid.*

8. The appearance in a mofussil court of a resident of Calcutta as witness, may be compelled by warrant endorsed by one of the judges of the Supreme Court under Act XXIII. 1840.—*Ibid.*

See "Admonition to be enjoined on witnesses."
„ "Confessions."
„ "Depositions."
„ "Prosecutors and witnesses."
„ "Diet-money."
„ "Trials, conduct of."
„ "Recognizance."
„ "Prisoners, evidence of."
„ "Processes."
„ "Trials referrible or called for."
„ "Calendar."

WITNESSES, DETENTION OF.

See "Indigent prosecutors and witnesses."

WOUNDED PERSONS.

See "Surgeons."

WOUNDS OF WOUNDED OR DECEASED PERSONS, REPORTS ON.

See "Police officers."

WRITS.

1. Civil writs for the apprehension, or personal attendance, of police officers are to be served through the magistrate. L. P., 25th April 1845, No. 203, Vol. III., ... 392

2. Form of writ under Act X. 1845, for service in Calcutta. L. P., 4th July, and W. P., 1st August, 1845, No. 205, Vol. III., ... 393
3. Form of writ under Act XXIII. 1840. L. and W. P., 28th August 1846, No. 232, Vol III., ... 414

See "Witnesses."
" "Processes."
" "Sheriff's officers."
" "Warrants."
" "Calcutta, criminals apprehended in."

Z.

ZEMINDARS.

Zemindars are restricted from exercising all positive power of interference in matters of police. They, like any other individuals, are competent to apprehend persons in the actual commission of public crime. 17th January 1811, No. 80, Vol. I., ... 30

See "Suppression of crime."
" "Penal engagements."
" "Police duties."
" "Hauts."